

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 30 November 2017 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. At Planning Committee meetings, other than in exceptional circumstances, only one person is permitted to speak in support of an application and one person in opposition to an application. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here: <http://www.colchester.gov.uk/haveyoursay>.

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The Council audio records public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 30 November 2017 at 18:00

The Planning Committee Members are:

Councillor Theresa Higgins	Chairman
Councillor Cyril Liddy	Deputy Chairman
Councillor Lyn Barton	
Councillor Helen Chuah	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

The Planning Committee Substitute Members are:

All members of the Council who are not members of this committee and who have undertaken the required planning skills workshop training:-

Councillors;

Christopher Arnold	Roger Buston	Nigel Chapman	Peter Chillingworth
Phil Coleman	Nick Cope	Robert Davidson	John Elliott
Annie Feltham	Adam Fox	Martin Goss	Dominic Graham
Dave Harris	Darius Laws	Mike Lilley	Sue Lissimore
Fiona Maclean	Patricia Moore	Beverley Oxford	Gerard Oxford
Lee Scordis	Rosalind Scott	Jessica Scott-Boutell	Lesley Scott-Boutell
Paul Smith	Martyn Warnes	Dennis Willetts	Julie Young
Tim Young			

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Please note that Agenda items 1 to 6 are normally dealt with briefly.

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting here: <http://www.colchester.gov.uk/article/13489/Planning-Committee>

Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 Have Your Say! (Planning)

The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda. Please indicate your wish to speak at this point if your name has not been noted by Council staff.

These speaking provisions do not apply to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

3 Substitutions

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

4 Urgent Items

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

5 Declarations of Interest

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

6.1 Minutes of 28 September 2017 7 - 16

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 28 September 2017.

6.2 Minutes of 19 October 2017 17 - 20

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 19 October 2017.

7 Planning Applications

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

7.1 172363 Lakelands Parcel NR5, Tollgate Road, Stanway, Colchester 21 - 36

Development for an additional ten units to Parcel NR5 which now comprises a scheme of twenty two units containing a mix of houses, together with associated private amenity space, means of enclosure, car parking, vehicle and access arrangements together with proposed areas of landscaping.

7.2 172362 Lakelands Parcel NR7 Block 1, Tollgate Road, Stanway, Colchester 37 - 50

Development for an additional three units to flat block one at Parcel NR7 which comprises a block of eleven units containing a mix of apartments, together with associated private amenity space, means

of enclosure, car parking, vehicle and access arrangements together with proposed areas of landscaping.

- | | | |
|-----|--|-----------|
| 7.3 | 172138 Chappel And Wakes Colne Station, Station Road, Wakes Colne, Colchester | 51 - 60 |
| | Variation of conditions 2, 4 and 5 of planning permission 161724. | |
| 7.4 | 170226 Fairfields Farm, Fordham Road, Wormingford, Colchester | 61 - 80 |
| | Application to vary condition 3 of planning application 121150. | |
| 7.5 | 172600 Fairfields Farm, Fordham Road, Wormingford, Colchester | |
| | Reconfiguration of crisping building to accommodate odour control system (Revised drawing received - The amendment is to increase the height of the discharge stack)
See report at item No 7.4. | |
| 7.6 | 172815 Car Park at Sheepen Road, Colchester | 81 - 102 |
| | Non material amendment following grant of planning permission 151825. | |
| 7.7 | 172995 Town Hall, High Street, Colchester | 103 - 108 |
| | Temporary seasonal signage for up to six weeks a year for a period of 2 years. | |
| | Planning Committee Information Pages | 109 - 118 |
| 8 | Exclusion of the Public (not Scrutiny or Executive) | |
| | In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972). | |

Part B

(not open to the public including the press)

Planning Committee

Thursday, 28 September 2017

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Chris Pearson

Substitutes: No substitutes were recorded at the meeting

Also Present:

518 Site Visits

Councillors Barton, Hazell, Higgins, Jarvis, Liddy, Loveland and Maclean attended the site visits.

519 Minutes of 7 September 2017

The minutes of the meeting held on 7 September 2017 were confirmed as a correct record.

520 171467 Lakelands Phase 2, Church Lane, Stanway, Colchester

The Committee considered an application for the approval of the reserved matters following the outline approval granted to application 151479. The application proposed 62 residential units comprising a mix of 55 houses and 7 apartments, together with means of access and associated infrastructure work. The application had been referred to Committee because the Committee had requested that the reserved matters application be reported to Committee when it considered the outline application. It was also a major application to which material objections had been received. The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives set out in the report and the amendment sheet.

521 171646 Aim Hire Site, Hawkins Road, Colchester

Councillor T. Higgins (in respect of her spouse's employment by the University of Essex) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the redevelopment of the site to provide 224 student bedrooms in a building of part 6, part 7 and part 8 storeys together with ancillary student uses comprising bin store, bike store, laundry and reception/office at ground floor, 46 parking spaces, landscaping, substation and linkages to river walkway. The application was referred to the Committee because it was a major development proposal to which objections had been received and which was recommended for approval, contingent on design revisions and the prior completion of a section 106 agreement. In addition, member approval was required in order to allow the Council to enter into a section 106 agreement. The Committee had before it a report in which all the information was set out together with further information on the Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Simon Cairns, Major Developments and Projects Manager, presented the report and assisted the Committee in its deliberations. In particular it was highlighted that improvements to the design of the building would be sought should the recommendation be agreed.

Councillor J. Young attended and, with the consent of the Chairman, addressed the Committee in support of the application. She had campaigned to have sprinklers installed in all appropriate buildings and had met the developers. She was delighted that they had taken a positive and responsible attitude and had installed a sprinkler system. It was also essential to ensure a safe route to the University at all hours. The foliage near the walkway should be cut back and LED lighting provided. Parking spaces were at a premium in the locality, and the provision of an appropriate level of onsite parking and a contribution towards a travel plan was welcomed. Waste collection was also likely to be an issue on site.

The Major Developments and Projects Manager explained that there was provision in the section 106 agreement for the securitisation of signing of the walkway, and due notice would be taken of the request for LED lighting. Waste disposal and collection issues were covered by condition 5.

Members of the Committee were supportive of the scheme. Clarification was sought as to what healthcare services would be provided by the section 106 contribution for primary care delivery in the area. Reference was also made to the need to ensure that the safety railings along the river frontage were extended to the bridge and to ensure that the path was properly lit. It was also suggested that more could be done to use and promote sustainable energy.

It was explained that the contribution towards healthcare had been requested by the

NHS through the Development Team process, but its precise use was not known. The maintenance company would be responsible for ensuring the safe maintenance of the pathway and the river frontage. In terms of sustainable energy, photo-voltaic panels would be provided at roof level. It was suggested that an informative could be added to the permission requesting the use of photo-voltaic lighting for the pathway and for sustainable energy to be used where possible.

RESOLVED (UNANIMOUSLY) that-

(a) Consideration of the application be deferred for completion of the Section 106 Legal Agreement to achieve the following:-

- £85 000 contribution to a footbridge over the River Colne;
- £90 000 contribution towards open space improvements;
- £80 000 contribution towards a bespoke student travel plan to be managed by Colchester Borough Council Colchester Travel Plan Club (which may include a £56 000 contribution for the provision of new bus stops located nearer the site to encourage an alternative travel mode);
- £60 000 contribution towards the securitisation and signing of the walking route to the University, together with the resurfacing, lighting and security of the nearest pedestrian route (located adjacent to the old Custom House);
- £35 328 contribution to mitigate the impact of the development on primary healthcare delivery in the area (as identified by the NHS);
- a requirement that the part of the river wall that is adjacent to the application site be surveyed and, if necessary, repaired as part of the overall works to create the extension to the riverside footway and cycleway.

(b) Following the successful completion of the section 106 agreement the Assistant Director Policy and Corporate be authorised under delegated powers planning permission subject to the further amended drawings first being submitted by the applicant which satisfy the Assistant Director that the elevational treatments has achieved the quality being sought and subject to the conditions and informatives as set out in the report, on the amendment sheet and additional informatives to encourage on-site energy generation especially solar powered lighting for riverside pathway, and to ensure that the Landscape Management Plan to ensure pathways are kept open for pedestrian safety and any river frontage includes continuation of railings for pedestrian safety.

522 162442 Cosways Holiday Park, Fen Lane, East Mersea, Colchester

The Committee considered an application for the change of use of land to site 67 static holiday caravans together with associated landscaping. The application was referred to Committee as it had been called in by Councillor T. Young. The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Chris Harden, Planning Officer, and Simon Cairns, Major Developments and Projects Manager, presented the report and assisted the Committee in its deliberations.

Maurice Lainchbury addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He represented the views of over 100 residents. The application was in breach of planning policy. The claimed benefits of the scheme would come at the cost of damage to the environment and increased pressure on infrastructure. There would also be costs to the local authority from 11 month occupation of the caravans. Whilst it was claimed that the application would bring economic benefits, it did not specify who would benefit. Nearly all visitors to the site would travel by car, which would generate an extra 260 vehicle movements per day. Therefore the proposals were contrary to transport policy and would put more pressure on Mersea's road network, which was characterised by narrow roads without footpaths, and would result in increased congestion.

Carl Castledine, Chief Executive of Away Resorts, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Away Resorts were a small but growing business. There had been a recent decline in the attractiveness of holiday parks which they were seeking to reverse. Cosways Holiday Park had suffered from under investment. The proposals would provide a modern and attractive holiday park which would provide both part time and full time job opportunities. It would also increase the amount paid in business rates. There would be a minimal impact on traffic and the any day arrival policy would reduce the traffic impact. They were dealing with the NCC to deal with the with long term residency issues. The proposal would create an excellent holiday park which would boost tourism in the area.

Councillor T. Young attended and with consent of the Chairman addressed the Committee in support of the application. The proposals were well designed and if approved, would enhance tourism and the borough's economy. The proposals did not breach the Local Plan but supported policies on tourism, employment and economic growth. Away Resorts had owned the site for two years and had invested heavily in the site to turn it into a quality park. The field which the applicant sought to develop was of low landscape and amenity value. The extension to the holiday park would be well designed and low density. It would not generate significant traffic and there was no objection from the Highways Authority. Strict controls would be imposed to prevent year round occupancy. Whilst it was noted that the application site was in the Coastal Protection Zone, this was also the case with Coopers beach site, which had been allowed to extend. This was not an allocated site in the Local Plan, and Policy DP10 allowed the extension of holiday parks. Policy ENV1 permitted development where it was compatible with its location. This was the case with this application which would

improve the visual amenity of the area.

Councillor J. Young attended and with the consent of the Chairman addressed the Committee in support of the application. If approved the proposal would help provide affordable holiday accommodation for residents of the borough. It would also help support local businesses. The owners had already significantly improved the park whilst it was under their ownership. It would only operate for 10 months a year, which should reassure those concerned about long term occupancy. Whilst concerns about traffic were noted, traffic in the area had temporarily increased recently as a result of the opening of a new playground at Cudmore Grove.

Councillor Moore attended and with the consent of the Chairman addressed the Committee. The costs of the development were too high for the proposed benefits. Once built the development would only create an additional four jobs. Mersea already suffered from the results of poorly managed tourism. There were already approximately 2000 caravans on Mersea. It was impossible to control residencies to prevent 12 month occupation. There would be 24 hour lighting on the site which would impact on the amenity of neighbours. Essex Wildlife Trust, who had objected to the proposals, had a better knowledge of the site than Natural England. The proposed development was also not compatible with the Council's Sustainable Transport Policy and the applicant's transport submission was inaccurate. There were robust planning reasons for the refusal of the application.

Councillor Goss attended and with the consent of the Chairman addressed the Committee in his capacity as Chairman of the Local Plan Committee. Whilst he was not in a position to comment on the merits of the application, he stressed the importance of respecting the Local Plan and expressed his concern that it was claimed that the application was in contravention of the Local Plan.

The Planning Officer explained that there would a significant impact on landscape, and whilst there be some economic benefit, this would not outweigh the harm to landscape. The application site was a valuable buffer between Cudmore Grove and the holiday park. Whilst an application had been approved at Coopers Road, this was an allocated site in the Local Plan. It was also set further back from the coast and views of it were hidden by the by the existing park. It was therefore not directly comparable. The comments of Essex Wildlife Trust had been carefully considered. However, it would be difficult to justify refusal on the grounds of impact on wildlife. The application was contrary to the Local Plan and conflicted with policies ENV1, ENV2 and DP23. Whilst policy DP10 supported the provision of sustainable rural tourism in appropriate locations, this was only where the proposals were compatible with the rural character of the area, which was not case with this application.

Members of the Committee were concerned that the application was contrary to Local Plan policies ENV1, ENV2, DP23 and DP10. In addition it was also contrary to the East

Mersea Village Plan. Particular concern was expressed about the significant impact the application would have on the Coastal Protection Zone. Members of the Committee also highlighted the height of the site which would mean that the site would be highly visible and therefore have a significant impact on the landscape and character of the area. Concerns were expressed that the application was too large in scale. Whilst the arguments in support of tourism were noted, some members felt that Mersea was reaching saturation point and the application would be detrimental to tourism in the long term. Concern was also expressed about the transport issues although members noted that the Highways Authority had not objected and that therefore a refusal on these grounds could not be sustained.

RESOLVED (EIGHT voted FOR and TWO ABSTAINED from voting) that the application be refused for the reasons set out in the report.

523 171172 West End Garage, High Street, Dedham, Colchester

The Committee considered an application for the demolition of the existing car repair garage and its replacement with a new two storey dwelling house, with proposed change of use to C3 at West End Garage, High Street, Dedham, Colchester. The application had been referred to Committee because it had been called in by Councillor Chapman. The Committee had before it a report and amendment sheet in which all information was set out.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

James Ryan, Principal Planning Officer, and Simon Cairns, Major Developments and Projects Manager, presented the report and assisted the Committee in its deliberations.

Councillor Taylor of Dedham Parish Council addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The application had resulted in 34 objections. The proposed building was too dominant in height which was out of character and would have a negative impact on the entrance to the village. It was misleading to compare it to the telephone exchange building as this was exempt from planning. Whilst Dedham did not have a Neighbourhood Plan it did not need more large detached properties such as this. The need was for smaller properties that could be purchased by existing residents and this was a rare opportunity to help deliver this. In addition the site was within an AONB.

Luke Patten addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He had lived in the area for 48 years and the house would be used by his family, who were part of the local community. This was a very contaminated site, with clean-up costs of up to £80,000. This dictated the viability of the site. A contemporary design had been submitted initially but this had led to

objections. Following discussions with planning officers a more traditional design that reflected the vernacular had been submitted. The Planning Officer and the heritage expert were supportive of the proposal. There was a consensus that the site needed to be developed, and the proposed dwelling would have smaller footprint than the existing building.

Councillor Chapman attended and, with the consent of the Chairman, addressed the Committee. He agreed that a residential use was appropriate for the site. The site was complicated by the presence of the telephone exchange. There was concern that the proposed new building would be taller than the telephone exchange building. Further negotiations on the design of the proposed building might find some common ground and a more acceptable design. A reduction in the height of the building would be welcomed.

The Planning Officer explained that only a small element of the building was higher than the telephone exchange building. Therefore it was not considered to be significantly detrimental to the street scene or the AONB. The Major Developments and Projects Manager explained that it was important to look at how the building related to others in the AONB. This included issues such as bulk, mass and materials as well as the height. In terms of the pitch of the roof, materials and narrow form the proposed building was in keeping. It was modestly scaled and the height of the eaves was much lower than the telephone exchange building. It was difficult to see how the proposed building could cause harm to the street scene or the AONB, especially in comparison to the existing building.

Members of the Committee acknowledged the concerns of the Parish Council but noted that this was a difficult site. The difference in height with the telephone exchange was minimal and it was noted that there was also a three storey building opposite the site. Therefore it was difficult to see what demonstrable harm the application would cause to the street scene and the character of the area. There were no overlooking issues and the building had been carefully designed. It was also noted that Permitted Development Rights would be withdrawn.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives set out in the report.

524 171518 Cambian Fairview, Boxted Road, Colchester

The Committee considered an application for the retention of the existing maintenance compound at Cambian Fairview, Boxted Road, Colchester. The application had been referred to Committee because it had been called in by Councillor Goss. The Committee had before it a report in which all information was set out.

Eleanor Moss, Planning Officer, presented the report and assisted the Committee in its

deliberations.

Malcolm Nicholson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on behalf of local residents. There was concern that the site was overdeveloped, and it was noted that the compound had been built without planning permission. Previous conditions imposed had required the introduction of suitable travel plans, but parking outside the site remained an issue and this was exacerbated by the loss of parking resulting from the compound. Whilst the proposals to ensure staff used the stadium or the Park and Ride site were noted, he was not convinced this was a serious attempt to deal with the issue. According to the North Essex Parking Partnership a residents parking scheme would not be introduced before 2020.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee in support of the comments made by Mr Nicholson. The site had recently changed ownership. There was no concern over the appearance of the compound. However, the planning conditions imposed on previous applications should be adhered to. It should be noted that when the Community Stadium was built, Boxted Road had been designated as a clear way, apart from this stretch. There was some doubt about the enforceability of the proposed Travel Plan. Should the application be refused, the operators of the site would gain an additional eight car parking spaces which would reduce the pressure on the parking used by local residents.

The Planning Officer explained that the parking was the key issue. Whilst residents had concern about employees from the site parking on the public highway, this was not a matter the planning authority could enforce. There was no highway objection and therefore a refusal on highways safety grounds could not be sustained. She had visited the site a number of times and it was her view that the situation had been improved by the introduction of the new measures by the applicant.

Members of the Committee expressed sympathy with local residents concerns about the impact of the compound on the availability of on-street parking. However, the long term solution to this issue was through the introduction of a residents parking scheme by the North Essex Parking Partnership. The Committee considered that granting a temporary permission would give an opportunity to see whether the new measures proposed under the applicant's Travel Plan ameliorated the position. The temporary permission would need to be for a significant period to allow for a proper assessment of its effectiveness. In addition it was suggested that the Travel Plan be referred to Colchester Borough Council's Travel Plan Club for approval.

RESOLVED (UNANIMOUSLY) that the application be approved on a temporary basis for a period of 18 months subject to the conditions and informatives set out in the report and amended to require that the applicant's Travel Plan be referred to Colchester Borough Council's Travel Plan for approval.

525 Changes to the Scheme of Delegation

The Committee considered a report by the Assistant Director Policy and Corporate concerning two minor changes to the Scheme of Delegation to Officers to clarify one category of delegated powers. This was to remove reference to the term ‘Conservation Area Consents’ which no longer existed, and to allow the refusal of applications where a Section 106 agreement was required, but was not being provided by the applicants, without referral to the Planning Committee.

RESOLVED (UNANIMOUSLY) that the wording of Paragraph 1 of the Scheme of Delegation to the Assistant Director Policy and Corporate from the Planning Committee by the removal of the struck through bold text and addition of the underlined bold text in sub-paragraph 1(d) as set out below:

1. The determination of all planning applications irrespective of scale and size (including changes of use and all applications for Listed Building Consent, Conservation Area Consent, Certificates of Lawfulness, applications for the determination as to whether prior approval is required, consent to display advertisements and other notifications) except any application:

.....

d) which constitutes a major application, that is recommended for approval and where a section 106 Agreement is required (excluding unilateral undertakings).

Planning Committee

Thursday, 19 October 2017

Attendees: Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Chris Pearson

Substitutes: Councillor Nick Cope (for Councillor Lyn Barton), Councillor Dominic Graham (for Councillor Helen Chuah)

Also Present:

526 Site Visits

Councillors Cope, Hazell, Higgins, Jarvis, Liddy, Loveland and J. Maclean attended the site visits.

527 Minutes

There were no minutes for confirmation at the meeting.

528 151004 16 Crouch Street, Colchester

The Committee considered an application for the conversion and provision of an addition to the roof of the front range of the former cinema to create eleven apartments and the demolition of the auditorium and the erection of a new building to provide 46 one and two bed apartments, the refurbishment of two existing retail units (A1 retail use) and the creation of 28 basement car parking spaces at 16 Crouch Street, Colchester. The application had been referred to the Committee because objections had been received to the proposals and the viability of the scheme was such that it could not afford to fund the Section 106 contributions that had been requested to mitigate the impact of the development. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. He confirmed that representations were still awaited from the Theatre Trust and, as such the amendment sheet had included an amended recommendation to reflect this.

Robert Pomery addressed the Committee pursuant to the provisions of Planning

Committee Procedure Rule 8 in support of the application. He explained that the proposal had been a challenge to deliver as the site was a difficult one with a number of constraints and he had not been surprised that the building had been empty for around 13 years. The main difficulty was that the site had heritage value and it was located in a conservation area which meant that aspects of the building needed to be preserved. To achieve this the architecturally designed front range had been incorporated into the final scheme. He also considered that the design of the replacement building would actually enhance the surrounding street scene. The site was significantly constrained and it had taken time to make the viability of the scheme work and he was of the view that this may yet prove challenging. He was confident that the rejuvenated shop fronts would enhance the street scene and he confirmed that the proposal accorded well with planning policy requirements.

Members of the Committee welcomed the proposal on the basis of the imaginative design, the enhancement of the area and the benefits to the other shops in the street. The work undertaken by officers working with the developer was fully supported. In particular the retention of the façade was fully supported and the design of the scheme was commended. Concern was nevertheless expressed in relation to the scheme's viability and its inability to deliver an affordable housing contribution as part of the Section 106 obligations. Clarification was sought in relation to the car parking space allocation, potential for contributions towards enhancement of cycle way facilities and the mitigation measures proposed in relation to the night time economy noise disturbance.

The Principal Planning Officer explained that the scheme was eligible for Vacant Building Credit, making use of changes in the National Planning Policy Framework to the way that affordable housing contributions could be sought where a vacant building was brought back into use or demolished and replaced by a new building. He also referred to the viability and development obligations and explained that there was a difference of opinion regarding the bench mark land values and build costs and, as such, it was proposed to carry out further viability review once build tender prices were known and likely sales values could be assessed and to use the Council's consultant bench mark land value. If it was determined that the scheme was viable it was recommended that the Section 106 contributions be allocated first to the identified local open space scheme at Hilly Fields and strategic recreational facilities and then to education schemes. He confirmed that any improvements to the local cycle paths were likely to require a significant financial contribution which would not be within the scope of this proposal. The application had been subject to a noise assessment and a condition had been included to provide for specified noise insulation to windows and floors. In terms of parking spaces, the site was in a very sustainable location and the developer had been able to exploit the excavation within the former cinema building in order to deliver a number of spaces, as such, the scheme was policy compliant.

RESOLVED (UNANIMOUSLY) that, subject to no objection being received from the Theatres Trust (or comments that could not be satisfactorily addressed through

amended plans or additional condition(s), the Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement to cover an updated viability appraisal and potential contributions in relation to open space and education facilities.

529 172172 Castle Park, High Street, Colchester

The Committee considered an application for the development of a Christmas attraction for Colchester including temporary structures and incorporating vintage rides, side stalls and other attractions - set – up on 18 November 2017, event operating from 25 November 2017 to 7 January 2018 (maximum, likely to be less) and site clearance on 10 January 2018 at Castle Park, High Street, Colchester. The application had been referred to the Committee because the Council was the applicant. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the amendment sheet.

530 171933 Alexander Cleghorn Ltd, Newbridge Road, Tiptree, Colchester

The Committee considered an application for the demolition of existing office buildings and canteen, provision of a new service road including junction to the highway, erection of a new two-storey office building and new one-storey staff canteen with associated car parking external works at Alexander Cleghorn Ltd, Newbridge Road, Tiptree Colchester. The application had been referred to the Committee because it was a major application and had received material objections. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

RESOLVED (UNANIMOUSLY) that, determination of the application be deferred pending the resolution of Sustainable Drainage System matters, following such successful resolution, authority be delegated to the Assistant Director Corporate and Policy to approve the application subject to the conditions set out in the report and the amendment sheet.

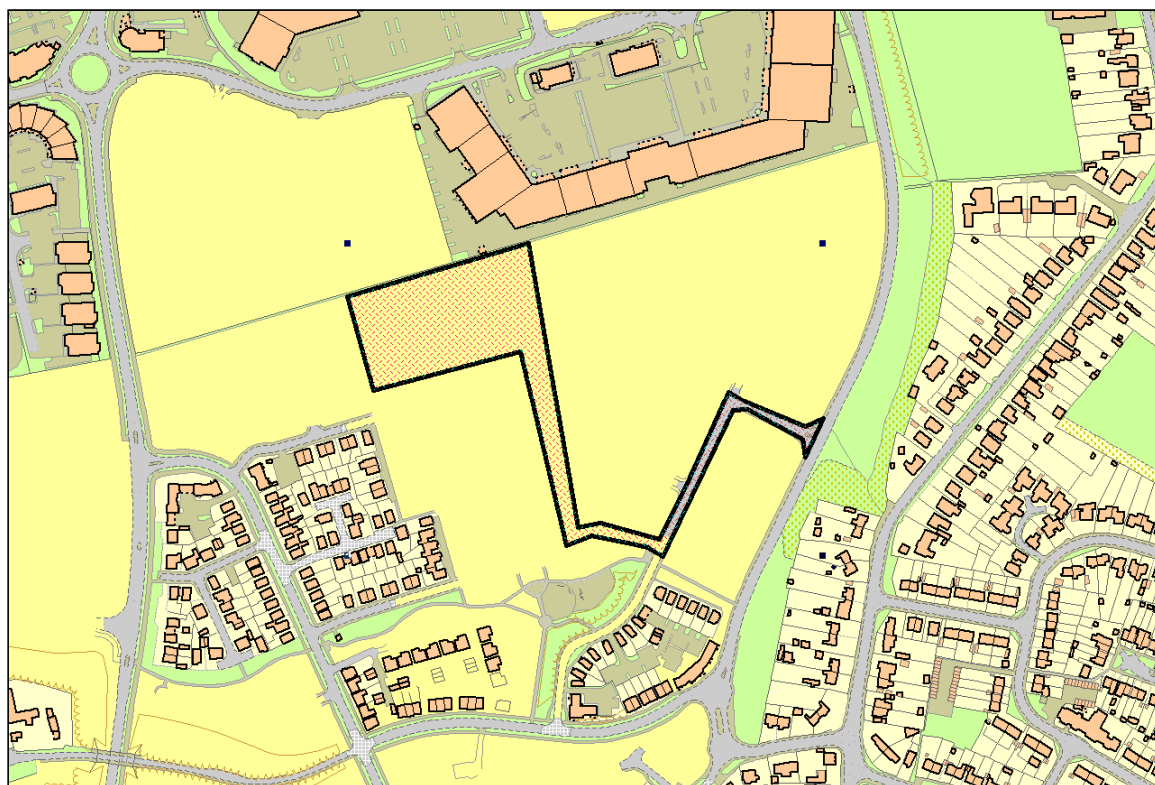
531 172233 and 182234 Holly Cottage, Straight Road, Boxted, Colchester

Councillor J. Maclean, on behalf of the members of the Conservative Group (in

respect of their acquaintance with the applicant) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a planning application and listed building consent for the raising of the existing chimney stack to 1.8 metres above the thatch and the replacement of the existing casement window in the end elevation at Holly Cottage, Straight Road, Boxted, Colchester. The application had been referred to the Committee because the applicant was a councillor. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the planning application and listed building consent be approved subject to the conditions set out in the report and the amendment sheet.



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Item No: 7.1

Application: 172363

Applicant: Persimmon Homes Essex

Agent: Mr Stuart McAdam

Proposal: Development for an additional ten units to Parcel NR5 which now comprises a scheme of twenty two units containing a mix of houses, together with associated private amenity space, means of enclosure, car parking, vehicle and access arrangements together with proposed areas of landscaping

Location: Lakelands Parcel NR5, Tollgate Road, Stanway, Colchester

Ward: Marks Tey and Layer

Officer: Daniel Cameron

Recommendation: Approval subject to conditions and the completion of an Section 106 Agreement.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major planning application requiring a Section 106 Agreement and because objections have been received from the public.

2.0 Synopsis

- 2.1 The key issues for consideration are whether the increased number of residential units proposed on the site would result in harm thereby conflicting with relevant local planning policies or the would run contrary to the approved Lakelands masterplan.
- 2.2 Following an examination of the issues surrounding this application it is subsequently considered that it be recommended for approval subject to the conditions recommended at the end of this report and the completion of a Section 106 Agreement based on the terms outlined at section 14.

3.0 Site Description and Context

- 3.1 The proposed site is a roughly rectangular shaped parcel of land located with at the northern edge of the wider Lakelands development site in Stanway. The site is located equidistant between the Stanway Western Bypass and Tollgate Road. To the immediate north of the site is the rear of the Tollgate retail park, while the parcels to the east and west of the site are to provide residential housing. It should be noted that the site to the immediate south of the site is intended to provide a school. This parcel is referred to by the developer as NR5.
- 3.2 In 2016, reserved matters consent was granted on this site which provided for the development of 12 residential units with associated parking and private amenity space, open space and landscaping.

4.0 Description of the Proposal

- 4.1 Following the approval of reserved matters in 2016, this full application seeks to increase the number of residential dwellings on the site by 10, giving a total of 22 dwellings. The dwellings proposed are to be a mix of 2 and 3 bed homes, comprising 16 no. x 3 bed and 6 no. x 2 bed. Building heights are also mixed; the majority are either 2 or 2.5 stories in height with only 4 units being 3 storey.
- 4.2 It should be noted that the scheme as now proposed will provide the requisite policy compliant levels of private amenity space, public amenity space, landscaping, access and parking.

5.0 Land Use Allocation

- 5.1 The current Local Plan includes the site within the Stanway Growth Area allocation, as such the specific Site Allocation policies are applied. These policies inform the overall level of development within the area and in particular emphasise the delivery of residential and employment uses.

6.0 Relevant Planning History

- 6.1 Outline planning consent was originally granted under reference COL/90/1904 and O/COL/02/0980. These consents secured 800 residential units on the site as well as employment and leisure uses. Associated infrastructure including open space, the Lakelands Country Park, a school and roads were secured under the associated Section 106 Agreement. These outline consents were renewed under applications 121040 and 121041. The outline consents allow for the construction of a total of 800 residential units on the wider Lakelands site.
- 6.2 All residential parcels within the Lakelands development have been subject to approval of reserved matters that are compliant with the terms of the wider outline permission. The total cumulative number of residential units being constructed on the site stands at 793.
- 6.3 Currently two applications propose increasing the numbers of residential properties to be delivered on parcels NR5 and NR6-8 which is located to the immediate east of NR5. These two applications propose a total increase in unit numbers of 13, taking the total number to be delivered on site to 806 if consented. The increase in unit numbers on site NR6-8 (3 further flats) is being dealt with under application reference 172362 and the associated report is set out on this Agenda.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:
- SD1 - Sustainable Development Locations
 - SD2 - Delivering Facilities and Infrastructure
 - H1 - Housing Delivery
 - H2 - Housing Density
 - H3 - Housing Diversity
 - H4 - Affordable Housing
 - UR2 - Built Design and Character
 - PR1 - Open Space
 - TA5 - Parking
 - ENV1 - Environment
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
- DP1 Design and Amenity
 - DP3 Planning Obligations and the Community Infrastructure Levy
 - DP12 Dwelling Standards
 - DP16 Private Amenity Space and Open Space Provision for New Residential Development
 - DP17 Accessibility and Access
 - DP19 Parking Standards
 - DP20 Flood Risk and Management of Surface Water Drainage
- 7.4 Some allocated sites also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:
- SA STA1 Appropriate Uses within the Stanway Growth Area
 - SA STA4 Transportation in Stanway Growth Area
 - SA STA5 Open Space in Stanway Growth Area
- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
 - External Materials in New Developments
 - EPOA Vehicle Parking Standards
 - Affordable Housing
 - Community Facilities
 - Open Space, Sport and Recreation
 - Sustainable Construction
 - Sustainable Drainage Systems Design Guide
 - Stanway Joint Design Statement and Parish Plan

8.0 Consultations

- 8.1 The stakeholders who have been consulted and provided consultation responses are as set out below. The complete text may be read on the Council's website.

- 8.2 *Landscape Officer* – States that minor revisions are required to the layout (which have now been achieved). The officer suggests a condition that further landscaping details including management plans should be submitted prior to commencement and implemented prior to occupation.
- 8.3 *Urban Designer* – Advises that the applicant has worked collaboratively with the urban designer to increase the overall design quality of the proposal. It is recommended that conditions be applied to control the materials used on the site and to provide additional architectural details (eaves, reveals, lintels, cills, etc). Otherwise the design of the overall parcel is good and there are no objections. Further consideration of recently received drawings will be reported to update members at committee.
- 8.4 *Environmental Control* – States that the rear of part of the proposed development backs on to a corner of the service yard of units in Tollgate Retail Park. Permission for future development of the area permits the retail park to be open until 23.30, which fall into the WHO guidelines for night time hours, therefore there is the potential for sleep disturbance and therefore a condition is recommended to ensure that the residential units are suitably insulated against disturbance.
- 8.5 *Highways Authority* – Raises no objections to the revised layout. Residential travel packs should be provided to each dwelling and be secured via condition.
- 8.6 *Natural England* – No comments.

9.0 Parish Council Response

- 9.1 The Parish Council have stated that they object to the proposed development on the grounds of insufficient parking and amenity space being provided on site. They note that the increase in residential units proposed by the applicants would not meet the expectations of the existing occupants.
- 9.2 In addressing the points made by the Parish Council, it should be noted that the application proposes parking on site in line with adopted parking standards and that a landscaped amenity area is to be provided along the northern border of the site. There is also a large amount of amenity space being provided throughout the entire Lakelands site that exceeds the policy standard across the development as a whole.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighboring properties. A single representation was received. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 It should be noted that previous applications within the larger Lakelands site have been particularly contentious. The one representation received in regards to this application, notes previous dissatisfaction with the planning decisions

regarding Lakelands parcel SR6 and that the Lakelands site as a whole cannot take more housing.

- 10.3 With regards to the representation above, both parcel SR6 and this development parcel have been allocated for residential development within the original outline planning permission. The outline consent allows for 800 residential units on the wider site. The changes proposed in terms of housing numbers on this site, would bring the total number of residential units on the site to 806. It is not accepted that this marginal increase in units beyond that approved under the outline permission would result in harm in terms of unacceptable density or non-compliance with adopted amenity/parking standards.

11.0 Parking Provision

- 11.1 Adopted parking standards require that 44 parking spaces are provided for the use of the residents of the development and a further 6 spaces be provided for use of visitors. The proposed development meets the required parking standards and provides visitor parking over the amount required by policy.

12.0 Open Space Provisions

- 12.1 The wider Lakelands consent provides for the delivery of the Lakelands Country Park, a large area of informal open space and also for green links to permeate the site thereby connecting the various residential developments to both the Country Park but also to Tollgate and wider Stanway.
- 12.2 Within the application site an area public open space is to be provided which as part of the above mentioned green links which serves to link the wider site with Tollgate achieves compliance with adopted policy and the aims of the approved Tollgate Masterplan.

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

- 14.1 As a Major application, there was a requirement for this proposal to be considered by the Development Team. As the original outline consents secured extensive contributions to mitigate the development impacts of up to 800 residential units, it was considered appropriate to levy contributions on the additional 6 units proposed beyond the outline permission and associated s.106 agreement.
- 14.2 The Community Infrastructure Levy Regulations 2010 (as amended) limit the Council to only collecting 5 contributions (known as the 'pooling restriction' in CIL Regulations 2010 as amended) towards a particular item of infrastructure. As the potential contributions from the additional 6 units were negligible, it was considered that further financial contributions should not be sought. Instead, the developer has offered two of the additional units as affordable housing. This

approach has been accepted by Development Team as a positive outcome reflecting wider corporate priorities and need and it is proposed that these units will be secured through a Section 106 Agreement.

15.0 Report

15.1 The main issues in this case are:

- Principle of Development
- Design and Layout
- Impact on the Surrounding Area
- Public Open Space Provision

15.2 The application site falls within an area of residential development already benefiting from extant outline and reserved matters permission. Residential development within this area is therefore acceptable in planning terms and the principle of development established.

15.3 Members may be aware that the design and access statement approved for the site through a discharge of condition process serves as the master-planning document for the wider Lakelands site. It makes a number of requirements relevant to this site; both in terms of design and layout. The strategic aim being “creating an attractive, exciting and liveable sustainable urban extension to the western fringe of Colchester”. The specific requirements for this site are listed below:

- Built form is to front out both northwards and southwards and density should be within a range of 30 to 35 dwelling per hectare;
- Design character should be typical of the urban form seen within Colchester and should seek to appear as an urban village;
- Building heights should be majority 2-storey with some 2.5 and 3 storey buildings providing landmark features; and
- Road access to be taken from the east, connecting to the rest of the residential development, but with no through access to the parcel on the western side. Access to this parcel should be in the form of a footpath and cycleway which runs east to west within the site and also connects to Tollgate in the north.

15.4 However, it must also be noted that while the masterplan is a material planning consideration, it is only a material consideration as a guide to development on the site and there have been a number of deviations from it as Lakelands has been built out. The question that must be addressed through this application, is whether the increase in unit numbers on this parcel would lead to an unacceptable form of development which would not accord with either the majority of the masterplan document, or with local planning policies.

- 15.5 The NPPF is clear in the significance it attaches to achieving good design within the planning system. Paragraph 56 of the NPPF states that ‘...good design is a key aspect of sustainable development...’ and ‘...is indivisible from good planning...’ Local Plan policies reflect this aim, Core Strategy policy UR2 requires development to be informed by the context of its location and to provide high quality design. Development Policy DP1 also requires a high standard of design from development proposals.
- 15.6 Development Policies DP12, DP16 and DP19 are all directly applicable given that they determine the relevant dwelling standards, size of private amenity space and parking provision required for all new residential development within the Borough. These policies provide detail to aid in the delivery of the residential development outlined in Core Strategy Policies SD1, H1, H2, and H3.
- 15.7 The layout of the site is unchanged from that approved at reserved matters stage. Road access continues to be taken from the east of the site and no through access is permitted to the adjacent site to the west. The footway and cycleway link through the site from east to west continues and the connection to the north to Tollgate is maintained. A strip of open space is maintained to the north of the site, both to set the built form back from the Tollgate Retail Park but also to offer a small area of open space. It should be noted that the Highways Authority raised no objection to the layout and that it continues to comply with the requirements of the Lakelands Masterplan.
- 15.8 Site density increases to 39 dwellings per hectare which is over and above what is recommended in the masterplan (30 to 35 dwellings per hectare). That said, the increased unit numbers does lead to a more efficient use of land. It should further be noted that at the time the masterplan was adopted, increased development at Tollgate Retail Park was not envisaged and the parcel of land to the immediate west was allocated as an employment site. Both parcels have intensified their uses and a marginal increase in density at this location would not result in material harm or conflict with adopted policy standards. The residential units proposed are still arranged as required by the masterplan; to front out both north south and it should be noted that back to back distances are achieved in line with the requirements of the Essex Design Guide.
- 15.9 With regard to the character of the built form, a contemporary approach has been adopted by the developer, looking to emulate the form of a small scale ‘urban village’. The house-types proposed have been much improved through collaborative working with Officers and are held to be indicative of good design. Conditions recommended by the Urban Designer have been attached to the end of this report to ensure that detailed design points can be worked up and that the use of materials suitable to the location are used within the construction of the properties.

- 15.10 As noted above, Development Policies DP12, DP16 and DP19 are all directly applicable to this site. With regards to DP12 there are no issues regarding back to back distances, overlooking, and overshadowing on residential privacy. Private amenity space is provided for each residential unit in the form of a private garden which meets or exceeds the minimum space requirements outlined in policy DP16. Finally, as noted in section 11 of this report, parking is provided in line with standards set out within DP19.
- 15.11 With regards to the surrounding area, it is noted that delivery times to the Tollgate Retail Park have been extended later into the evening. As this can be a particularly sensitive time in which to operate, Environmental Control Officers have recommended a condition requiring a higher standard of noise insulation to the properties on this parcel of land. This issue aside, there are no further identifiable impacts on the surrounding area.
- 15.12 The site has no existing landscape features, although a parcel of open space incorporating footway and cycle links across the site and into Tollgate is to be provided and landscaped to provide public amenity. This will be conditioned to ensure that a detailed landscape plan is submitted to and approved by the Council prior to commencement.

16.0 Conclusion

- 16.1 To summarise, the proposed development satisfies the strategic aims of the Lakelands masterplan with the exception of the marginal increase in housing density. That said, the increased numbers on the scheme do not lead to conflict with adopted policy and result in a development which makes better use of land and relates better to the context in which it is placed. Given the thrust of Government policy to increase housing supply, the more efficient use of land is positive where this does not result in an unacceptable form of development or design. It is consequently considered that the development proposed is acceptable in planning terms and approval is recommended.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions with delegation to officers to vary matters of detail should this be necessary:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM - Development to Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PH-105-02 D, PH-105-09 A, PH-105-10 A, PH-105-11 B, PH-105-12 A, PH-105-13 A, PH-105-14 A and PH-105-15 A.PH -105-02 Rev D, PH-105-08D.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. ZBC - Materials to be Agreed

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4. Z00 - Drawings of Architectural Features

Prior to the commencement of any works, additional drawings that show details of all architectural features (including but not limited to) proposed new windows, decorative brick details, doors, string courses, eaves, verges, cills, window reveals, pilasters, balconies, roof feature/s, exposed rafter feet, and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these features which are an integral part of the overall design.

5. Z00 - Landscape Works

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority. The works hereby agreed shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Proposed finished levels or contours along with confirmation that the footway/cycleway conforms to required accessibility levels;
- Means of enclosure;
- Vehicle and pedestrian access and circulation areas;
- Hard surfacing materials;
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.);
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)

- Planting plans;
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- Implementation timetables and monitoring programs.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

6. ZFE - Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

7. Z00 - Areas to be Adopted/Un-adopted/Public

Prior to the commencement of any works a plan showing the areas of the site to be adopted to be the responsibility of a management company or to be in private ownership shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure these matters are agreed and there are no areas of land where ownership/responsibility is unknown.

8. Z00 - Management Company Details

Prior to the first occupation of the development hereby permitted, details of the Management Company to be responsible for all the areas either adopted or not in private ownership shall be submitted to, and agreed in writing by, the Local Planning Authority. The Management Company shall thereafter remain in place for the management of these areas.

Reason: To ensure the continued and appropriate management of these areas.

9. Z00 - Parking Spaces to be Provided

Prior to the first occupation of the development, the PARKING SPACES and VISITOR SPACES shown on the approved plans shall be made available for use for the parking of motor vehicles to be used solely for the benefit of the occupants of the dwelling of which it forms part, or their visitors, and for no other purposes whatsoever. The PARKING SPACES and VISITOR SPACES shall then be maintained free from obstruction and for this purpose at all times thereafter.

Reason: In order to ensure that the development retains adequate parking provision.

10. ZJA - Cycle Parking TBA

Prior to the development hereby permitted coming in to use, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

11. ZJD - Travel Information and Marketing Scheme

Prior to the first occupation of the development, the developer shall be responsible for the provision and implementation of a Travel Information and Marketing Scheme for sustainable transport, which shall have been previously submitted to and approved, in writing, by the Local Planning Authority, to include vouchers for 12 months free bus travel within the Stanway zone for each eligible member of every residential household. The vouchers to be valid for exchange during the first 6 months following the occupation of the individual dwelling unit.

Reason: In the interests of promoting sustainable development and transport.

12. ZGK - External Noise

All residential units shall be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 “good” conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax)
- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAmax)

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of the development and shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

13. Z00 - Development to be in Accordance with Remediation Strategy

Development shall comply with the BWB Remediation Strategy, Ref OHP007/05/V3, dated February 2012 (“RMS”) and CGL Gas Risk Assessment Report, Stanway, Colchester, dated February 2012 as agreed by Colchester Borough Council on 2nd May 2012 in discharge to condition 6 of F/COL/01/0976 or variation as agreed in writing with the Local Planning Authority.

Reason: The site lies within 250m of a former landfill site and the Local Planning Authority wishes to ensure that development proceeds safely.

14. Z00 - Development to be in Accordance with Environmental Reports

Development shall comply with the BWB Phase I Geo-Environmental Report for O&H properties Ltd; Ref: OHP007SE/PHS2/01/V2; dated July 2010 BWB Phase II Additional Environmental Assessment Interpretative Report for O&H Properties Ltd; Ref: OHP007SE/PHS2/02/V1; dated March 2011 BWB Further Ground Gas Investigations and Monitoring for O&H Properties Ltd; Ref: OHP007/04/V3; dated

February 2012 BWB Remediation Strategy, Ref OHP007/05/V3, dated February 2012 ("RMS") as agreed by Colchester Borough Council on 2nd May 2012 in discharge to condition 29 of F/COL/01/0976. Or other variation as agreed in writing with the local planning authority.

Reason: To ensure that the site is currently in or is brought to a condition that poses an acceptable risk to future occupants, users, controlled waters, property and the greater environment from contamination in the soil and controlled waters. It also ensures that the site workers are not exposed to unacceptable risks from contamination during construction.

15. Z00 – Construction Method Statement

Construction methods shall comply with the Construction Method Statement received 30th November 2010 and agreed by Colchester Borough Council on 9th December 2011 in discharge to condition 12 of F/COL/01/0976 unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety and safeguarding residential amenity.

16. Z00 - Foul and Surface Water Drainage

Prior to the commencement of any development, a scheme for the provision and implementation of foul and surface water drainage shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall thereafter be constructed and completed in accordance with the approved plans.

Reason: To prevent the potential for any increased risk of flooding.

17. ZCE - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

18. Z00 – Lighting of the Development

Any lighting of the development shall be located, designed and directed so that it does not cause avoidable intrusion to adjacent residential properties or constitute a traffic hazard or cause unnecessary light pollution outside the site boundary. 'Avoidable intrusion' means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers. Reason: To reduce the undesirable effects of light pollution on the amenity of the area.

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

2. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

4. ZTC - Informative on Noise and Sound Insulation Competent Persons

PLEASE NOTE that, with regard to and noise measurement and sound insulation, a competent person is defined as 'someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience'.

5. ZTG - Informative on Section 106 Agreements

PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

6. ZUP - Informative on Surface Water Drainage

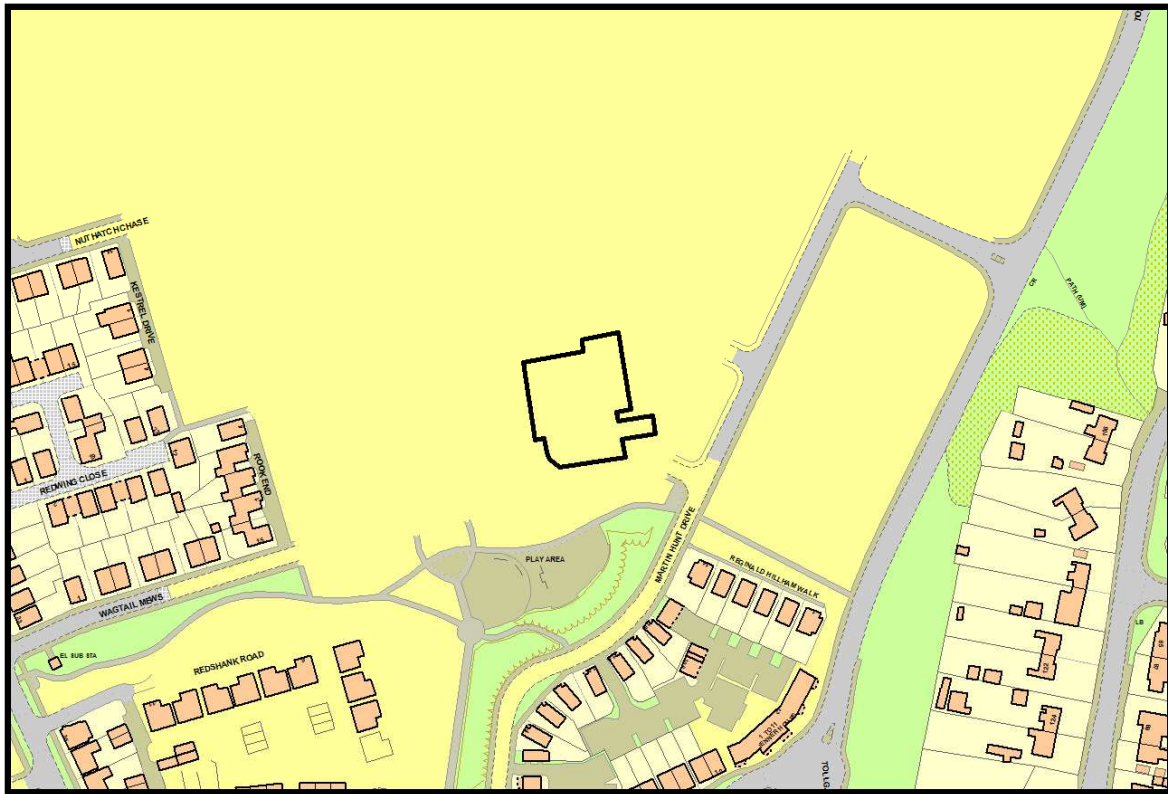
PLEASE NOTE that it is the responsibility of the developer to ensure proper provision is made for the surface water drainage of the site to ground, watercourse or surface water sewer. To avoid foul sewer flooding, surface water must not be drained to a foul sewer. The use of sustainable drainage systems (known as SUDS) is very much encouraged. SUDS offer an alternative approach to traditional engineered drainage solutions by detaining run-off on site and releasing it slowly into watercourses or to ground (e.g. dry ditches/swales, detention/attenuation ponds, integrated wetlands). Source control techniques are also increasingly popular, e.g. the use of porous (as opposed to impermeable)

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paving and 'green roofs' which allow rainwater re-use. These techniques reduce the likelihood of flash flooding, result in greatly improved water quality, are often cheaper and easier to maintain than traditional engineered drainage solutions (i.e. involving seal-trapped gullies and petrol interceptors), and can provide wildlife habitats.

7. INS – Landscape Guidance Notes

Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C @ <http://www.colchester.gov.uk/article/13592/Landscape-Guidance-for-Developers>.



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Item No: 7.2

Application: 172362

Applicant: Mr Matt Parsons. Persimmon Homes

Agent:

Proposal: Development for an additional three units to flat block one at Parcel NR7 which comprises a block of eleven units containing a mix of apartments, together with associated private amenity space, means of enclosure, car parking, vehicle and access arrangements together with proposed areas of landscaping.

Location: Lakelands Parcel NR7 Block 1, Tollgate Road, Stanway, Colchester

Ward: Marks Tey and Layer

Officer: Sue Jackson

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

This full application is referred to the Planning Committee because the application site is part of Lakelands and the application proposes a building part 4 storey in height which is not in accordance with the approved Masterplan which suggests buildings with a maximum height of 3 stories in this location.

2.0 Synopsis

The key issues for consideration are whether the 3 additional units in a building which is part 4-storey is suitable in its context, whether the design is acceptable and whether there is satisfactory parking provision. The conclusion is that in this particular location, a corner site overlooking an area of open space and land identified for a school, a building part 4 storey and part 3 storey in height is acceptable, revisions to the design have been negotiated and satisfactory provision is made for parking. The application is subsequently recommended for approval.

3.0 Site Description and Context

This application relates to a parcel of land known as NR7 forming part of Phase 2 of Lakelands at Stanway. The specific location is a building described as Block 1 which faces an area of public open space and land reserved for a school.

The site contains no landscape features and has been re-contoured since the extraction of minerals ceased. Vehicular access to the site from Tollgate Road has been constructed.

4.0 Description of the Proposal

Reserved matters for Lakelands areas NR6, 7 and 8 were approved by the Planning Committee on 20 October 2016. The approval included a building described as Block 1; part 3 storey and part 2 storey in height comprising eight units five 2-bed and three 1-bed. The proposal is to increase the height of the building by a further floor thereby elevating the 2 storey element to 3 storey and the 3 storey element to 4 storey in order to accommodate a further three units. Block 1 will therefore comprise eleven units, seven 2-bed and four 1-bed. Additional parking spaces are also proposed.

5.0 Land Use Allocation

Adopted Local Plan- Stanway Growth Area Residential

6.0 Relevant Planning History

The Lakelands site has a long planning history but the most relevant application is 160661 application for the approval of reserved matters on areas NR6-8 following outline planning permissions 121040 and 121041.

7.0 Principal Policies

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment

The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

- SA H1 Housing Allocations
- SA STA1 Appropriate Uses within the Stanway Growth Area
- SA STA4 Transportation in Stanway Growth Area
- SA STA5 Open Space in Stanway Growth Area

Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Affordable Housing
- Community Facilities
- Open Space, Sport and Recreation
- Sustainable Construction
- Urban Place Supplement
- Sustainable Drainage Systems Design Guide
- Stanway Joint Design Statement and Parish Plan

8.0 Consultations

The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

Highway Authority has commented “Having reviewed the proposed layout, provided the three visitor parking spaces are re-located so as to not be on carriageway adopted as highway, from a highway and transportation perspective the Highway Authority has no comments to make on the proposal”. *Officer comment: these spaces have been relocated off the highway.*

Urban Design Officer: Objects to the application. The NPPF requires good design and states that poor design should be refused. The 2010 Design and Access Statement approved for the outline application provides the agreed masterplan for the wider Lakelands neighbourhood. For this site it suggests building heights up to 3 storey to provide ‘primary frontage’ overlooking the now built central park. In contrast to the above, the building is 4 storey, it would be the tallest in the neighbourhood, whilst described as a ‘landmark’ and then only by its size rather than distinctive qualities, the building design is noticeably poor. It is accepted the approved building design is similarly styled, though simply raising storey heights is not acceptable. *Officer comment. Planning permission has been granted for a building part 2 storey part 3 storey and the application proposes raising the storey heights and continuing the approved design for another storey. It is agreed that the increase in height will make the building more prominent and amendments to the appearance of the building as a whole are required. A series of improvements have since been agreed with the applicant and these are described below.*

9.0 Parish Council Response

The Parish Council have stated that “Stanway Parish Council OBJECTS to this proposal in support of local residents objections.

The site will be overdeveloped with insufficient parking and amenity space. The increase in units does not meet existing occupants’ expectations”.

10.0 Representations from Notified Parties

The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council’s website. However, a summary of the material considerations is given below.

No representations received.

11.0 Parking Provision

The parking provision satisfies the Councils Adopted Parking Standards 2 spaces for each of the 2-bed flats, 1 space for the 1-bed flats and 3 visitor spaces. Cycle parking is also indicated.

12.0 Open Space Provisions

Lakelands includes significant areas of public open space including a country park which in total exceed the 10% policy requirement.

13.0 Air Quality

The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

However an agreement is required to link this application to the legal agreement for the Lakeland site so these units are included in the calculation of unit numbers for triggering obligations.

15.0 Report

The main issues in this case are:

The Principle of Development

The site is within an area of residential development. The site is that of a building with planning permission for 8 residential units within Lakelands Phase 2 area NR7. Residential development is therefore acceptable in principle.

Development of Lakelands Phase 2 is authorised by 2 outline planning permissions, applications 120140 and 120141 (these are both renewals of earlier outline consents), each include a condition restricting the total number of units to 800. The development already built out and reserved matters consents yet to be implemented equate to 793 units, this full application proposes an additional 3 units which if consented will take the total number of units to 796 still below the 800 ceiling. The majority of Lakelands is now built out so there is only limited scope for any further applications to increase the number of units. However officers are currently considering a full application to increase the number of units on area NR5 from 10 units to 22 units; application reference 172363.

Members will be aware the Design and Access Statement approved in discharge of a condition on the outline permissions comprises the Lakelands Masterplan. The Masterplan indicates buildings with a maximum height of 3 storeys on area NR7 including the application site.

However the Masterplan is only a guide to development and whilst it is a material planning consideration the application has to be considered on its planning merits, the main issue to be considered is whether a small element of 4 storey building, equivalent to a further 2 units, is appropriate in this location. Members should note there has already been a degree of flexibility in building heights, permission has been granted for a 4 storey building on another part of Lakelands where the masterplan indicates a maximum building height of 3 storeys and in areas where the masterplan indicates a maximum building height of 4 storeys buildings are 2 and 3 storeys high.

The question to be addressed is whether a small element of 4 storey building is appropriate in this location. The building proposed is part 3 storey and part 4 storey and is located on the edge of area NR7 fronting an area of public open space and land reserved for a school. It is adjacent to another building containing flats which is part 2 and part 3 storeys in height. It is considered an increase to 4 storeys could be justified as a focal point to the central park and the green link subject to an amended design and detailing. The original design was unacceptable and improvements have been negotiated and are described below.

Design and Layout

Policies in the local plan, in accordance with the NPPF, seek to promote good design to ensure attractive and functional places, and that developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported.

The layout of this corner turning building is unaltered by this proposal. A building part 3 part 4 storey is obviously more prominent and the 4 storey element will be the highest building on this part of Lakelands. Amendments to the design have been negotiated including hipped roofs with a roof feature, improvements to the fenestration and the introduction of string courses. It is considered these amendments represent an uplift to the previously approved building which will be appropriate in its context and will enhance the character of the area.

Impact on the Surrounding Area

There will be no identifiable adverse impact on the surrounding area.

Impacts on Neighbouring Properties

There will be no adverse impact on the amenity of neighbouring properties.

Amenity Provisions

The uplift in the design quality will improve the general amenity of the area and the street scene.

Landscape and Trees

The site has no existing landscape features. The area to the front of the building is unaffected by the increase in height and will be landscaped to provide public amenity. A condition will be imposed to require a detailed landscape scheme to be submitted and approved.

Highway Safety and Parking Provisions (including Cycling)

The Highway Authority has no objection. The approved road network serving the site is unaffected by this application. Parking provision satisfies the Councils adopted standards.

Public Open Space Provision

The site includes no public open space but as described above the Lakelands development includes significant areas of public open space including a country park which in total exceeds the 10% policy requirement.

Private Amenity Space Provision.

Each flat has a balcony which satisfies the space standards within the Essex Design Guide, in addition this block faces a large area of public open space which includes children's play equipment.

Other Matters

None

16.0 Conclusion

To summarise, the proposal satisfies the Councils amenity and parking standards and the improvements to the design will enhance the area and the proposal is consequently considered acceptable in terms of detailed design.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting, to link this application to the legal agreement/s for Lakelands. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions:

1. ZAA - Time limit

The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAB - Approved Drawings

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PH-113-U-001rev A, PH-113-U-002 rev B, PH-113-U-003 rev B, PH-113-U-005 rev B, PH-113-U-006-1 rev B, PH113-U-006-2 rev C. Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. Non-standard Condition - External Materials

Notwithstanding any details shown within the submitted application, this permission expressly excludes the use of the external materials shown. No works shall take place until details of alternative materials have been submitted to and agreed, in writing, by the Local Planning Authority. The roof material shall comprise an artificial or natural slate. The development shall thereafter be carried out using these approved materials. Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

4. Non-standard Condition - Landscape Works to be submitted and approved

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall take account of the landscape proposals for the adjacent site NR10 in so far as they relate to Tollgate Road.

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The submitted landscape proposal shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- FOOTPATH/CYCLE LINKS
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS; • HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users, also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity and as the details submitted are not acceptable in all respects.

5. Non-standard Condition - Implementation and Monitoring Programme for approved landscape works

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

6. Non-standard Condition - Landscape Management Plan

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved, in writing, by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

7. Non-standard Condition - Drawings of Architectural features

Prior to the commencement of any works, additional drawings that show details of all architectural features (including but not limited to) proposed new windows, decorative brick details, doors, string courses, eaves, verges, cills, window reveals, pilasters, balconies, roof feature/s, exposed rafter feet, and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these features which are an integral part of the overall design.

8. Non-standard Condition - Parking Spaces to be provided and maintained

Prior to the first occupation of the development, the PARKING SPACES and VISITOR SPACES shown on the approved plans shall be made available for use for the parking of motor vehicles to be used solely for the benefit of the occupants of the dwelling of which it forms part, or their visitors, and for no other purposes whatsoever. The PARKING SPACES and VISITOR SPACES shall then be maintained free from obstruction and for this purpose at all times thereafter.

Reason: In order to ensure that the development retains adequate parking provision.

9. Non-standard Condition - Areas to be adopted/ non adopted areas/public areas

Prior to the commencement of any works a drawing showing the areas to be adopted, to be the responsibility of a management company or to be in private ownership shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure these matters are agreed and there are no areas of land where ownership/responsibility is unknown.

- 10. Non-standard Condition** - Management Company for non-adopted areas
Prior to the first occupation of the development hereby permitted, details of the Management Company to be responsible for all the areas either not adopted or not in private ownership shall be submitted to, and agreed in writing by, the Local Planning Authority. The Management Company shall thereafter remain in place for the management of these areas.
Reason: To ensure the continued and appropriate management of these areas.
- 11. Non-standard Condition** - Development in accordance with remediation strategy
Development shall comply with the BWB Remediation Strategy, Ref OHP007/05/V3, dated February 2012 ("RMS") and CGL Gas Risk Assessment Report, Stanway, Colchester, dated February 2012 as agreed by Colchester Borough Council on 2nd May 2012 in discharge to condition 6 of F/COL/01/0976 or variation as agreed in writing with the Local Planning Authority.
Reason: The site lies within 250m of a former landfill site and the Local Planning Authority wishes to ensure that development proceeds safely.
- 12. Non-standard Condition** - Development in accordance with environmental reports
Development shall comply with the BWB Phase I Geo-Environmental Report for O&H properties Ltd; Ref: OHP007SE/PHS2/01/V2; dated July 2010 BWB Phase II Additional Environmental Assessment Interpretative Report for O&H Properties Ltd; Ref: OHP007SE/PHS2/02/V1; dated March 2011 BWB Further Ground Gas Investigations and Monitoring for O&H Properties Ltd; Ref; OHP007/04/V3; dated February 2012 BWB Remediation Strategy, Ref OHP007/05/V3, dated February 2012 ("RMS") as agreed by Colchester Borough Council on 2nd May 2012 in discharge to condition 29 of F/COL/01/0976. Or other variation as agreed in writing with the local planning authority. Reason: To ensure that the site is currently in or is brought to a condition that poses an acceptable risk to future occupants, users, controlled waters, property and the greater environment from contamination in the soil and controlled waters. It also ensures that the site workers are not exposed to unacceptable risks from contamination during construction.
- 13. Non-standard Condition** - Construction Method Statement
Construction methods shall comply with the Construction Method Statement received 30th November 2010 and agreed by Colchester Borough Council on 9th December 2011 in discharge to condition 12 of F/COL/01/0976 unless otherwise agreed in writing with the Local Planning Authority. Reason: In the interest of highway safety and safeguarding residential amenity.

14. Non-standard Condition - Foul and Surface Water Drainage

Prior to the commencement of any development, a scheme for the provision and implementation of foul and surface water drainage shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall thereafter be constructed and completed in accordance with the approved plans. Reason: To prevent the potential for any increased risk of flooding.

15. Non-standard Condition - Communal Refuse recycling and satellite aerals

Details of communal refuse and recycling storage facilities, cycle storage facilities and communal satellite aerals for any flat forming part of the development shall be submitted to and approved, in writing, by the Local Planning Authority before the commencement of development of such units. Reason: In order to ensure that satisfactory communal services are provided to flats on the estate.

16. Non-standard Condition - Lighting

Any lighting of the development shall be located, designed and directed so that it does not cause avoidable intrusion to adjacent residential properties or constitute a traffic hazard or cause unnecessary light pollution outside the site boundary. 'Avoidable intrusion' means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers. Reason: To reduce the undesirable effects of light pollution on the amenity of the area.

17. Non-standard Condition - No occupation until vehicle access is available

None of the residential units hereby approved shall be occupied until they are adequately linked to the public highway network in accordance with approved highway plans. Reason: To ensure that safe and convenient vehicle access to the site is available at all times.

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

2. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these

requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. Non-Standard Informative - Highway informatives

- All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority
- All highway related details should be agreed with the Highway Authority



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Item No: 7.3

Application: 172138

Applicant: Mr Ian Reed

Agent: Mr David Owen

Proposal: Variation of conditions 2, 4 and 5 of planning permission 161724

Location: Chappel And Wakes Colne Station, Station Road, Wakes Colne, Colchester, CO6 2DS

Ward: Rural North

Officer: Eleanor Moss

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the application site is larger than a hectare, so forms a major application, and unresolved objections have been received.

2.0 Synopsis

- 2.1 The key issues for consideration are the design, the impact upon the character of the surrounding area and impact upon residential amenity. These are considered to be acceptable.

- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site forms part of an active railway, Chappel and Wakes Colne, which is operated by Network Rail and Abellio Greater Anglia. Much of the site is owned by the East Anglian Railway Museum (EARM), overall the site measures 1.6 hectares. The site contains a number of existing buildings and car parks for the use of the EARM which are dispersed throughout the site.
- 3.2 The site is located within the open countryside, with the existing raised railway track fairly remote from residential properties. Much of the EARM is located within the valley and well screened by existing vegetation and, as such, views from the public realm would be very limited.

4.0 Description of the Proposal

- 4.1 This application seeks to vary conditions 2, 4 and 5 of Planning permission 161724. That permission was for *“new single-storey building containing display rooms for a model railway club and EARM classrooms, as well as the repositioning of the restoration shed and associated works (staff car park, embankment and railway track). New extension to platform 5/6.”*
- 4.2 By way of clarification, these conditions relate to the following:

- Condition 2: Drawing numbers;
Condition 4: Details of profile sheet metal;
Condition 5: Details of materials to be agreed.

4.3 In more detail, the changes to condition 2 (drawing numbers) seek the following changes:

- A reduction of the overall footprint;
- A change in the shape of the building to avoid changing existing retaining walls to the embankment;
- Removal of a 1st floor reducing the overall height from 8540 to 6910;
- The adoption of a steel frame/cladding package building (omission of containers) as used for the storage shed approved and built previously in the adjacent field;
- The omission of the salvaged Crystal Palace Booking Hall for a public entrance;

4.4 Condition 4 is now to be removed. It originally asked for details of the profile sheet metal. The application now explicitly states that the sheeting is to be:

“Steadman’s A35 composite profiled panels colour Olive Green 12 B 27 to match storage shed on site.”

4.5 Condition 5, similarly, sought details of colours of facing materials. Again, this condition is no longer necessary as the details have been submitted with this application. For the record, the materials are to be olive in colour.

4.6 Effectively, therefore, whilst condition 2 is to be varied, conditions 4 and 5 are to be removed.

5.0 Land Use Allocation

5.1 The EARM is a long established tourist attraction sited alongside Chappel and Wakes Colne Station.

6.0 Relevant Planning History

6.1 161724 - Resubmission of approved application 150630 for a new single storey building containing display rooms for a model railway club and EARM classrooms, as well as the repositioning of the restoration shed and associated works (staff car park, embankment). Approve Conditional - 07/10/2016

6.2 150630 - New single storey building containing display rooms for Model Railway Club and Classrooms previously approved under Outline Planning Approval ref: 121780 dated 18th March 2013. Approve Conditional - 23/07/2015

6.3 143599 - Application for a lawful development certificate for an existing use. The Museum has for many years 25+ hired buildings and facilities to third parties in order to raise funds for the charitable work of the Museum. The hires range from private part. Approve Certificate of Lawful Use or Development - 12/04/2016

- 6.4 121780 - New restoration and storage sheds and associated works. New pedestrian ramped access to station museum. Conversion of existing restoration shed to heritage centre. Removal of temporary buildings and extension to platform 5/6. Resubmission of 111819. Approve Conditional - 18/03/2013
- 6.5 111568 - Extension of planning permission ref F/COL/05/0942 from 31 March 2013 until 31 March 2021 and for retention of demountable buildings 1 and 2. Construction of mock platform 5/6 and canopy & relocation of ticket office and signal box. Approve Conditional - 30/09/2011.
- 6.6 111819 - New restoration and storage sheds and associated works. New pedestrian ramped access to station museum. Conversion of existing restoration shed to heritage centre. Removal of temporary buildings and extension to platform 5/6.
Withdrawn - 29/02/2012
- 6.7 111928 - Erection of 35m x 15m storage shed and the installation of 192 solar PV panels on the southern roof slope. This application reflects part of the proposals applied for in the current outline planning application for a 10 year master plan. Approve Conditional - 09/01/2012
- 6.8 100492 - Replacement of existing hinged wooden strutt entrance gate with 2.1m high security mesh panels by a 2.4m sliding metal palisade gate. Approve Conditional - 17/05/2010

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP9 Employment Uses in the Countryside
DP10 Tourism, Leisure and Culture
DP21 Nature Conservation and Protected Lanes

- 7.4 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Landscape Planning Officer – No objections received.

9.0 Parish Council Response

- 9.1 Wakes Colne Parish Council has no objection to this application.
- 9.2 Chappel Parish Council would ask that the Planning Department look into any concerns from neighbouring properties.

10.0 Representations from Notified Parties

- 10.1 One letter of objection and one letter of general observation were received following the consultation exercise. The full text of all of the representations received is available to view on the Council's website. However, a brief summary of the material considerations is given below:
- Concerns regarding the former orchard
 - Concerns regarding the railway track
 - Concerns regarding impact upon neighbouring amenity
 - Concerns regarding the red line of the site
 - Concerns regarding the railway track and buffer design
- 10.2 It is worth noting a number of these concerns related to the proposed track design and position of the restoration shed being impractical and called for reviews into the operation of the proposed track and train movements. Some of these details are explained further in the officer report below.
- 10.3 In this instance, even though reports have not been submitted by a civil engineer to confirm that the proposed track is feasible, this does not warrant a refusal as it could be conditioned as part of any planning consent. It was conditioned under

permission 161724 and this condition shall be re-enforced here at condition 2 which references back to all previous conditions. In the event that this Permission could not be implemented, a new application would be required.

- 10.4 Furthermore, a number of the concerns raised are not material planning considerations, for example The Chappel and Wakes Colne Light Railway Order 1994. Acts such as these are separate from obtaining planning permission and are not material planning considerations. It is therefore advised that any interested parties should seek independent legal advice on these matters. There are other various objections about the rights of EARM in relation to rail legislation and the network operator and so on. These are not planning issues. The granting of planning permission does not prejudice other statute, nor the rights of the rail operator as land owner or in any other capacity. Other non-planning issues are not for consideration herein.

11.0 Parking Provision

- 11.1 Complies with current car parking standards, no change from previous permission.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

- 14.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should not be sought.

15.0 Report

Principle of the Development

- 15.1 The site lies outside the village settlement boundaries for Chappel and Wakes Colne and is subject to rural protection policies. Most significantly, ENV2 states “outside village boundaries, the Council will favourably consider small-scale business, leisure and tourism schemes that are appropriate to local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment”.
- 15.2 In this instance, permission has been granted previously to extend the EARM (please see paragraph 6.1 for further details) as it provides a valuable tourism and recreation resource to the charity. The revisions to the restoration shed or the site do not result in a new tourist destination within the countryside but rather enhance an existing site.

- 15.3 In view of the above, it is considered that the principle would be acceptable. However, there are other matters such as design and impact on neighbouring amenity amongst others, which will be discussed further in this report.

Design and Impact upon Surrounding Area

- 15.4 The amendments to the previously approved restoration shed and the site are generally not visible from the surrounding rural area, due to the existing complex of buildings on site, the operational train station and surrounding vegetation.
- 15.5 The restoration shed is located within the centre of the site and the design follows the industrial and functional style of its immediate context. Views of the proposed restoration shed will be extremely limited from the public realm. As such, the proposal is considered to be in keeping with the site.

Impact upon Neighbouring Amenity

- 15.6 The site is part of a railway museum, along with an active railway line which has been operational for nearly 45 years. Train noise would be expected at no different level or frequency to that which exists today. As the proposals are set firmly within the EARM site, the proposals are set away from the closest residential properties and the proposed use is compatible with the existing land uses/activities. It is considered that any impact upon residential amenity will be marginal.

Track design

- 15.7 In the interests of transparency, and as these issues were raised by the objector (although not fundamentally at the heart of this submitted planning application and have previously been approved within application 161724), the track design, embankment and staff car park (considered below) are discussed within this report.
- 15.8 The existing track running into Platform 5/6 is to be lengthened to the east and west (to be connected to the existing track at the top of the embankment) and the existing EARM track will also be extended at the top of the embankment. This will require the existing buffers to be moved, however these will still be within land owned by the EARM. A new extended platform 5/6 is proposed to be built. These proposals are required in order to accommodate trains on site and increased visitor numbers every year. The extension to Platform 5/6 poses no impacts outside of the site and raises no other concerns. The objector has raised concerns in relation to the track design, safety and functional operation. Whilst the Local Planning Authority (LPA) notes these concerns, they are not material planning reasons for refusal. The burden rests with the applicant to secure a suitable and safe track design. If, in the future, the applicant finds the proposed track design unsuitable and requires amendments then another planning application will be required.

Embankment

- 15.9 Additional embankment is proposed and has already been approved under application 161724. This is in order to provide a base for the extension of the railway track so as to connect the track directly to the new restoration shed.
- 15.10 The proposed embankment will require quite a steep gradient; engineering documents have been submitted as per the discharge of condition application and these are being considered separately. The Agent has confirmed that an engineer previously visited the site and inspected the proposal. The Agent confirmed that the embankment gradient is suitable for the railway use and can be stabilised.
- 15.11 This has limited public impact and it is considered that conditions could be used to finalise the scheme within the parameters granted by any approval herein.
- 15.12 An objection has also been raised regarding the slope; the suggestion is that that the embankment will not be feasible when it comes to the engineering stage. This is not for the Local Planning Authority to comment on, however, if that is the case, then a new application would be required for any amended embankment. This application grants permission for what is shown, and conditioned, and not for any other works that are not detailed on the approved drawings. This will be an issue the applicant will need to address if they cannot build what has permission, and it will then be reconsidered on its merits if and when such a matter arises.
- 15.13 On balance, the embankment would have no impact outside of the site and from public vantage points. Therefore, this is not a fundamental issue that warrants a refusal. There is enough information to satisfy the LPA that the works can be undertaken without public harm.

Staff car park

- 15.14 The current staff car park will need to be moved to accommodate the new track and the restoration shed and this has previously been approved under 161724. This is moved to an area that lies lower, and that is well screened and away from neighbouring properties. The staff car park will include spaces for staff and also disabled parking for members of the public. Given the location of the car park, it is not considered that this will have any impact outside of the application site. It will be conditioned to ensure that the use of the access from Spring Gardens Road will be restricted to staff and blue badge holders.

Single storey building

- 15.15 The new structure is in order to provide a space which is suitable for a multitude of uses, including; teaching classrooms, educational visits, training rooms and private hire. The building will also be used to provide a base for the model railway group. This is well within the site and as such will have no direct impact outside of the site.
- 15.16 It is worth noting that all of these above mentioned works were detailed on a number of historic planning applications but have been discussed within this report explicitly for reasons of transparency.

16.0 Conclusion

- 16.1 To summarise, the development accompanied by reasonable conditions set out in the recommendation is considered acceptable in that it represents a suitable land use which accords with the Council's Adopted development Plan and the National Planning Policy Framework.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAW - *Removal/Variation of Condition(s) Approval*

With the exception of condition 2 Planning Permission 161724 which is hereby varied, and conditions 4 and 5 of that permission, which are hereby removed, the requirements of all other conditions imposed upon planning permission 161724 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

3. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers:

2014-17/15D, 2015-03/03E, 2014-17/16F, 2014-17/17B, 2014-17/18F, 2014-17/19E, 2014-17/20C, 2014-17/37, 2014-17/38, 2016-1 1/01, 2015-03/02C, 2015-03/04B, 2015-03/05B, 2015-03/06B, 2014-17/07A, 2014-17/08A, 2014-17/09A, 2014-17/13D and 2014-17/14A.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

4. ZBB - Materials As Stated in Application

The external facing and roofing materials of the restoration shed shall be those specified on the Schedule of Finishes and Colours referenced: 2014-17, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area.

18.0 Informatives

18.1 The following informative is also recommended:

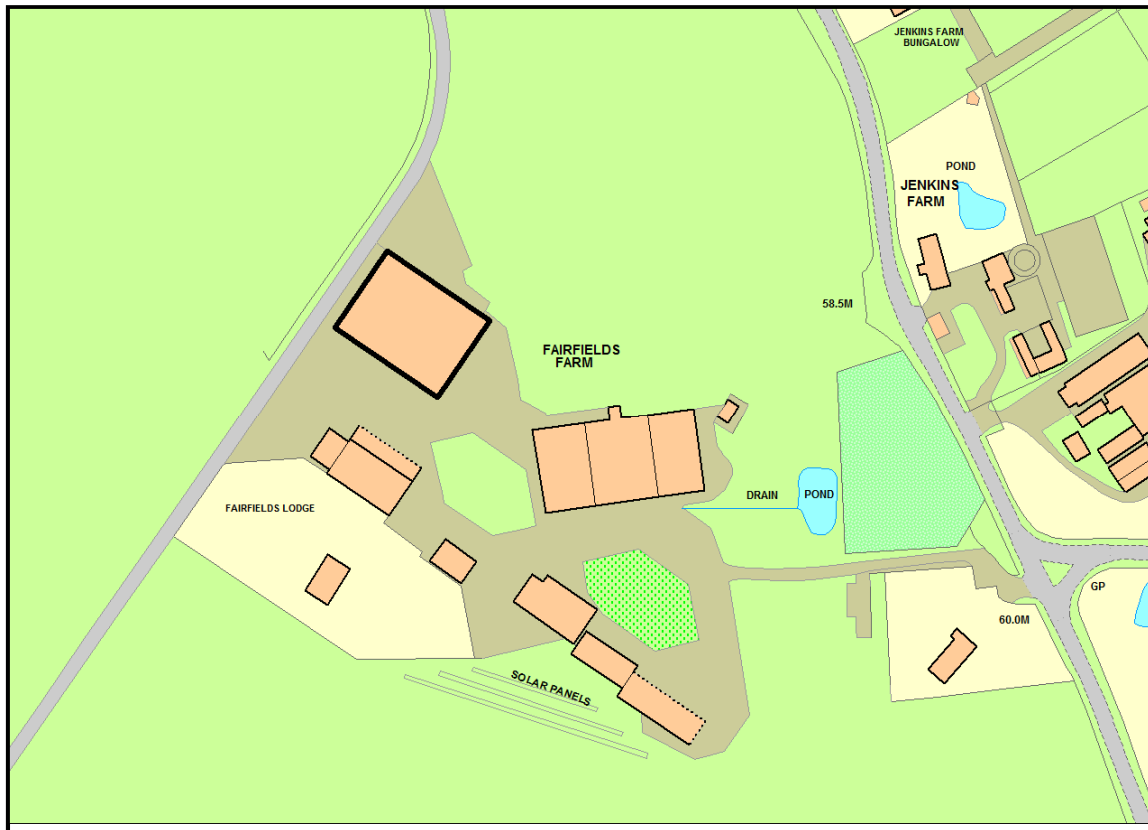
1. ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

19.0 Positivity Statement

WA1 – Application Approved Without Amendment

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



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Item No: 7.4

Application: 170226

Applicant: Mr Robert Strathern

Agent: Mr Guy French

Proposal: Application to vary condition 3 of planning application 121150.

Location: Fairfield's Farm, Fordham Road, Wormingford, Colchester, CO6 3AQ

Ward: Rural North

Officer: Jane Seeley

Recommendation: Approval

And

Item No: 7.5

Application: 172600

Applicant: Mr R Strathern

Agent: Guy French

Proposal: Reconfiguration of crisping building to accommodate odour control system

Location: Fairfields Farm, Fordham Road, Wormingford, Colchester, CO6 3AQ

Ward: Rural North

Officer: Jane Seeley

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 Cllr Chapman called in application 17026 because of disquiet in Wormingford regarding smells emanating from the crisp production process at Fairfields which detrimentally impacts the amenity of the affected residents when it occurs. He and Cllr Arnold believe a decision on this Application should be made by the Committee to ensure the residents can have confidence that their concerns have been fully considered. Following receipt of application 172600 Cllr Chapman also called in that application as it is inextricably tied up with Application 170226.

2.0 Synopsis

- 2.1 The key issue for consideration is whether the impact on the amenity of the proposed increase in hours of manufacture of crisps on the amenity of householders in the area.
- 2.2 The applications are subsequently recommended for approval

3.0 Site Description and Context

- 3.1 The application building is adjacent to existing agricultural buildings, several of which have been erected in recent years. An older agricultural building on the site has permission for B2 use. To the north of the building is a recently erected biogas digester. The boundary of the farm with Fordham Road has hedgerows in places. This provides good screening, but there are places where there are views of the complex. A public footpath runs on a track to the north-east of the proposed building. There are vehicular accesses at the junction of Fordham Road and Packards Lane, and to the south of the site opposite Rochford Farm buildings

4.0 Description of the Proposal

- 4.1 170226 proposes the variation of Condition 3 of planning permission 121150 which controls the hours crisp manufacture can occur to allow 24 hours operation from Monday 06:00 to Saturday 22:00. Application 170226 is for the reconfiguration of the crisp manufacture area, including an increase of the area in order to install an odour control system together with external extraction equipment to the north side of the building

5.0 Land Use Allocation

- 5.1 No notation and therefore located in the defined countryside.

6.0 Relevant Planning History

- 6.1 120226 Change of use of potato store to potato crisp manufacturing, addition of extract cowlings to roof and changes to the size and elevations of the building (approved under Planning permission 102064). Approved and conditioned:

1. The odour extraction system detailed in specification dated 15.8.2012 shall be installed by 31.10.2012. The control measures shall thereafter be retained and maintained in the agreed specification and working order unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that there is a scheme for the control of fumes, odours and smell in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties.

2. The rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission.

3. No machinery shall be operated on the premises outside of the following times: Monday to Friday: 07.00-18.00, Saturday: 08.00- 13.00 or at any time on Sundays or Public Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties.

4. No deliveries shall take outside of the following times; Monday to Friday: 07.00-18.00 Saturdays 08.00-13.00 or at any time on Sundays and Public Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

5. The hereby approved use shall be used solely for purposes associated with the applicant's farming activities.

Reason: In the interests of residential amenity and to ensure the building remains associated with the agricultural use.

6. Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E2. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Reason: To reduce the undesirable effects of light pollution on the amenity of neighbouring residential properties and the surrounding countryside.

7. The landscaping details as shown in the agent's letter and drawing dated 22.8.2012 as augmented by the applicant's email of 24.9.2012 shall be carried out in full prior to the end of the first planting season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: To ensure an appropriate standard of visual amenity in the local area.

8. The development hereby permitted shall be retained in accordance with the details shown on the submitted site plan and photographs dated 19.7.2012 and the associated landscaping shall be in be in carried out accordance with the agent's letter and drawing dated 22.8.2012 as augmented by the applicant's email of 24.9.2012 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

- 6.2 The extraction system required by condition 1 of planning permission 120226 has not been effective in control odour from the crisp manufacturing process and the Council's Environmental Protection section has had an extensive complaint history dating back to February 2013. Various methods to control odour have been introduced but have not resolved the issue.

Comments from Environmental Protection following receipt of the application to vary the hours of operation to 24 hours resulted in the applicants proposing additional works to the odour control system. These works were completed in June 2017 and Environmental Protection Officers monitor the site for a month. During the period there were complaints from residential and the odour was witnesses by Officers.

The Environmental Protection Officers recommended that planning permission should be refused. On being advised that the application was to be refused the applicant's requested that the decision was delayed in order that they could take further advised regarding odour control measures.

Further proposals were put forward for discussion in Septembers 2017. These included works both externally and internally including an increase in the crisp manufacture area to accommodate the proposed odour control equipment. It was considered that the extent of the proposed changes were more than could be consider as a variation of condition application and this lead to the submission of application 170226.

Since submission the application for the extraction system has been amended so that the discharge stack is increase in height to be 1m above the ridge line of the building. This amend is subject to re-notification with local residents and the Parish Council. Any comments received will be report on the amendment sheet.

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP5 Appropriate Employment Uses and Protection of Employment Land and
DP8 Agricultural Development and Diversification
DP9 Employment Uses in the Countryside

- 7.4 The Emerging Local Plan has been submitted for Inspection and therefore carries a small degree of weight. The policies most relevant to this scheme are:

DM15 – Design and Amenity

SP6 – Spatial Strategy for North Essex

DM7 – Agricultural Development and Diversification

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 ECC Highways:

Comments for 170226

No objection - The additional traffic is a bit of a trade-off for the overall benefits to the economy, jobs etc. The HA would be hard pressed to recommend Refusal based on traffic movements etc unless they could be described or considered severe. I suspect that that would be very difficult to demonstrate and win on Appeal

Comments for 172600

No objection.

- 8.3 **Contamination Land officer** – No comments

- 8.4 **Environmental Protection** – Due to the nature of the concurrent applications the two responses from Environmental Protection have been reproduced in full.

Comments for 170226

The Proposal

This proposal seeks to vary Condition 3 of 121150 to enable the potato crisp operation at Fairfield's Farm to extend its hours of operation. It is proposed that the operating hours of the potato crisp operation within the building forming part of application number 121150 are extended to the hours of: Monday 06:00 to Saturday 22:00.

Background

The Current Process.

The site is currently licenced to operate between the hours of 07:00 and 18:00 Monday to Friday and 08:00 to 13:00. In 2015 50 to 60 batches of crisps were being fried on any one day.

Existing Odour Control Equipment

Extraction from the factory exits via the roof and is ducted down to a low level where it enters a steel container. Immediately prior to this any exhaust fumes are treated by the introduction of a dry-vapour odour neutraliser. Following the Environmental Protection Team interim comments dated 19 April 2017 further works to the abatement system were carried out by the applicant. These works included an adjustment of the airflow through the fans and an extension to the ducting to improve condensation.

Odour Monitoring carried out by the applicant.

Two odour monitoring reports were submitted with this planning application. These reports by Sinol UK. Were prepared on:

- 23rd July 2015
- 4th January 2017

These reports indicate that off- site odour monitoring was carried out on the;

20 July 2015 during the hours of 10.00 – 15.00 the odour was witnessed by ‘sniff test’ at intensity levels 0, 1, 2 and 3. See Table 1 for intensity levels description

19 December 2016 during the hours of 09.30 – 12.00 no odour was witnessed

21 December 2016 during the hours of 09.00 – 11.40 the ‘sniff test’ results were 0, 1 and 2 and a slight corridor of malodour was witnessed off site between Packard’s Lane and the glider club.

The odour report dated 4 January 2017 suggested that the continuous operation of the odour control system would provide a positive impact on odour control associated with the permitted use. However, as the complaints received by the Environmental Protection Team are not confined to the early morning start-up of the equipment and the odour abatement system we do not have the evidence to support this comment.

Table 1 – Intensity levels

1	very faint
2	faint
3	noticeable
4	very noticeable
5	extremely noticeable

Weather

Weather including wind directions will have an effect on how the odour is received at resident's properties and changes in atmospheric conditions will have a role in the dispersion of odour. The odour reports accompanying this application do not consider the changes in atmospheric conditions that may occur during the night time period which could lead to additional complaints. For example on a fine sunny day, the heating of the land surface causes hot eddies of air to rise and the odour is rapidly dispersed. However on a cool, still, clear night the air at the surface cools and does not rise. This is because an inversion layer has developed. Little mixing occurs in the atmosphere beneath the inversion layer. Under these circumstances, little dispersion (breaking up) of the odour occurs and odours remain at high intensity at some distance from the source.

Complaint History

The Council has an extensive complaint history regarding odour from the production of crisps at Fairfield's Farm dating back to February 2013. Since 1st March 2017, as part of this application the Council's Environmental Protection Team has been investigating complaints of odour nuisance from Fairfield's Farm. During this time odour from crisp production has been witnessed on several occasions at different locations and times of the day by Environmental Protection Officers and a Planning Officer.

Following the comments made by Environmental Protection on 19th April 2017 it was agreed to suspend the witnessing of the odour whilst further works to the odour control system were being carried out. These works were completed on the 26th June 2017 and Fairfield's Farm requested that the team monitor the site for one further month before making their recommendation to the Planning Officer. However, despite the works being carried out by Fairfield's Farm, the Environmental Protection Team received 22 complaints from affected residents between 4 July and 31 July 2017. Following residents' complaints odour was witnessed again by an Environmental Protection Officer and a Planning Officer

The odours witnessed by officers did not constitute a statutory odour nuisance either by strength of odour or duration. However, odour was witnessed as distinctive and attributable to the crisp production at Fairfield's Farm. The odours witnessed were of short duration (minutes) and assessed as having an intensity level of between 1 and 3 (see Table 1).

The evidence gathered by the Environmental Protection Team at that time indicated that odour distinctly attributable to Fairfield's crisp factory is currently

noticeable in the surrounding area and as such the increase in operating hours posed a significant risk to amenity, quality of life and wellbeing for local residents, and in their interim comments dated 27 August 2017 Environmental Protection recommended refusal of planning application 170226

Following consideration of Environmental Protection Teams comments, Fairfield's Farm proposed a further upgrade to their existing Odour Abatement System. The proposed scheme described in planning application 172600, Advises that 100% of oil and odour will be removed from the exhaust. The exhaust will discharge at a minimum of one metre above the roof ridge of any adjacent building (it currently discharges at ground level) and the steam will be discharged at a higher velocity. The frying area is also to be separated from the rest of the factory reducing the escape routes for odour and insuring the air passes through the extract system.

The Odour Abatement system described above is an improvement over Fairfield's Farm current scheme of odour control and according to the information providing by the manufacturer the neighbouring properties will be less affected by odour. Therefore, if the system described in planning application 172600 is installed with agreement to maintain as per manufacturers specifications. Environmental Protection would remove their objection to planning application 170226.

However, if permission should be granted the applicant should be aware that planning permission does not provide immunity from Statutory Nuisance legislation.

Should planning permission be granted Environmental Protection wish to make the following comments:-

Having considered the proposed system for the control of odours from the frying process at Fairfield's Farm in planning application 172600, Environmental Protection have the following comments in regard to planning application 170226 to extend the operating hours:

The variation of condition 3 of planning permission 121150 shall not come into effect until the extraction system approved under planning permission 170226 has been completed in its entirety and the completed system has been inspected and agreed by Environmental Protection Team

An Odour Management Plan shall be produced and forwarded to Environmental Protection prior to the extension of hours, this plan should include all servicing and maintenance schedules and shall be available for inspection by Council staff.

Reason: Due to ongoing complaints of odours from the frying process at Fairfield Farm crisp factory Environmental Protection wish to ensure the odour control system is in place and operating as described by Fabcon Foods Systems Ltd.

Complaint history

The Council has an extensive complaint history regarding odour from the production of crisps at Fairfield's Farm dating back to February 2013. Since the 1st March 2017 the Council's Environmental Protection Team has been investigating complaints of odour nuisance from Fairfield's Farm. During this time odour from crisp production has been witnessed on several occasions and at different times of the day by Environmental Protection Officers and a Planning Officer.

Following the comments made by Environmental Protection on 19 April 2017 it was agreed to suspend the witnessing of the odour whilst further works to improve the odour control system were being carried out. These works were completed on the 26th June 2017 and Fairfield's Farm requested that the site was monitored for one further month. However, despite the works being carried out the Environmental Protection Team received further complaints from affected residents between 4th July and 31st July 2017. Following residents' complaints odour was witnessed again by an Environmental Protection Officer and a Planning Officer.

Following this period of monitoring the Environmental Protection Team produced an interim report dated 27 August 2017 which recommended refusal of the application to extend the hours of operation.

Following consideration of the report dated 27 August 2017 Fairfield's commissioned two companies to review their odour abatement systems and recommend improvements.

Fairfield's Farm - Existing abatement equipment

Extraction from the factory exits via the roof and is ducted down to a low level where it enters a steel container. Immediately prior to this any exhaust fumes are treated by the introduction of a dry-vapour odour neutraliser.

Further works to the abatement system were carried out by the applicant in June 2017. These works included an adjustment of the airflow through the fans and an extension to the ducting to improve condensation. The odour neutraliser point was moved to the end of the system.

Defra guidance

Defra sets out in guidance the minimum requirements for odour control within a commercial premises.

To achieve this the odour control system should include an adequate level of:

1. Odour control; and
2. Stack dispersion.

Discharge stack

The discharge stack should normally be not less than 1 m above the roof ridge of any building housing the commercial kitchen. It is recognised in the guidance that this may not be possible, but then an exceptionally high level of odour control will be required. Defra guidance suggests that a high level of odour control would generally include fine filtration, carbon filtration and/or electrostatic precipitation. However, in the case of high volume processes it is recognised that fine filtration would be problematic owing to fouling.

Fairfields Farm - The proposed system

The applicant has commissioned Fabcon Food Systems Ltd to design a system to minimise odours from the crisp production process at Fairfields Farm. The proposed scheme aims to condense 85/95% of oil and odour droplets with rest being removed by filtration followed by high level dispersal.

The proposed system comprises of three stages;

Information provided by Fabcon Food Systems Ltd states the following;

Stage one - condenser

In condensing heat exchangers of this type with a staggered tube pitch and large surface area due to the number of tubes used, the volumetric flow rate of 700m³/min provides a relatively high velocity which scrubs the heat transfer surface removing the tendency for water droplets to form a film that inhibits heat transfer. The actual heat transfer area on the unit designed is approximately 37 m² which is greater than that required and allows for a fouling factor of 0.5, which we believe is more than adequate. The CIP (clean in place) system that will also be installed will allow and assist in maintaining the clean surface to allow the heat exchanger to do its job to full efficiency. The efficiency figures for this type of system state that they are between 85 to 95% efficient in condensing the oil and odour droplets from the process.

Stage two – filtration

Filtration systems can fail if they are not correctly specked or not correctly maintained. The proposed system however incorporates a two-stage filter that will have the ability whilst in process to be moved out with a new cartridge filter unit being slid directly in place and the filters will then be cleaned whilst the process is unaffected.

The percentage of the effectiveness will not deteriorate over time in production as we will not be using activated carbon or a filter bed and the system will be an all-metallic unit which will be unaffected by the process air and odour.

A baffle/mesh filter system will allow all of the remaining contaminants to be removed through a pressure drop and through natural deflection and catchment of oil and residue. This system will be cleaned periodically but will have no consumable items so will be easy to maintain.

Stage three – discharge stack

The filter system will remove the remaining residue after the condenser and will then, being under positive air flow, be pushed up the stack at a high velocity to disperse the air into a large atmospheric area.

8.5 Environmental Protection comments

The current application is an improvement over the current scheme of odour control and therefore is supported by Environmental Protection. The applicant should however be aware that planning permission does not provide immunity from statutory nuisance legislation.

Should planning permission be granted Environmental Protection wish to make the following comments:-

We recommend the following conditions are applied;

- The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 7000, 7208-PC-03-10-17A and BPC-03-10-17 and Fabcon Food Systems Ltd report dated 10/9/17 shall thereafter be retained as detailed on these drawings and in the report unless otherwise agreed in writing by the LPA.
- The discharge stack should terminate at least one metre above the ridge height of the building.
- Following installation the operational system shall be inspected by an Environmental Protection Officer.
- A service/maintenance regime and log book must be kept and made available for the Environmental Protection team to inspect upon request.

Reason: there is a history of odour complaints related to this site

In addition:

A scheme for the collection and disposal of waste from the system must be submitted to, and agreed in writing by, the Local Planning Authority and adhered to thereafter.
Note: If being disposed of in the foul sewer network Anglian Water should be advised.

ZGG - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of, or boundaries near to, noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

NOTE: Demolition and Construction

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

9.0 Parish Council Response:

9.1 Comments for 170226

Object :

- Concern over additional periods of noise associated with the extended hours of operation, especially in a rural setting and loss of amenity to neighbouring properties as a result.
- Concern over extended periods of odour related to the production of crisps in this location. The Council would like to see plans produced in order to reduce the existing odour issues that exist.
- Concern over extended hours of work at the weekend (i.e. Saturday). Are operations also planned to take place on Bank Holidays?
- Concern over more road movements to and from the site. The Council do not see how increasing production hours would therefore not increase traffic flow. Concern is for Wormingford residents along with neighbouring Fordham.
- The Council is concerned that as a rural farm the site is turning more into an industrial location and therefore the question has to be raised as to whether they are outgrowing their existing rural site.

9.2 Comments for 172600

“support the new proposed odour control system for Fairfield Farm. However, it would like to see some monitoring conditions put in place in order to ensure that the local resident's amenity is appropriately protected. This should include a regime of continued monitoring to ensure that the system performs as anticipated.”

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

10.2 Objections (24) to 170226 – several have made by one person/address

- The very unpleasant odour that occurs day, night and at weekends is unacceptable.
- Particularly evident at the start off daily operations, when the smell of frying oil can be very heavy in the air.
- Applicants have total disregard for their neighbours.
- Creeping industrialisation in a rural area.
- If permission was given to operate around the clock during the week(which is the obvious assumption given the stated increase in staff numbers) then this would be both excessive and detrimental to the surrounding area.
- Problems with the odour produced by the crisp factory at Fairfields farm have not been resolved. We have complained to the Council and the Environment Department. Nothing has ever been done in response to our complaint that we are aware of. We have previously complained to Mr Strathern directly so he is also very aware of the problems we are suffering due to the business he is running.
- The chip fat cooking smell/odour produced by the factory is very unpleasant. It disrupts simple daily life for us:- the opening of house windows for fear of invasion of the odour, and the enjoyment of being outside.
- It is suggested by the consultant Mr Strathern is employing as part of his planning application that the odour is minimal and controlled or controllable is questionable by anyone's standards, and to therefore suggest it is within legal limits is wrong.
- Activities on the farm are massively detrimental to the environment
- This is an over intensification of a development that should never have been allowed in this area. What consideration has been given to residents and the impact from, noise, smell and traffic. Working 24hrs a day from Monday 6am to 10pm on a Saturday is not acceptable.
- The number of 40 feet long tractors and trailers carrying potatoes racing through the village, until 11pm is unacceptable If the operating hours are extended for the factory this transporting activity to be extended.
- Large lorries often manoeuvre at the Church Road/Ponders Road junction.
- Number of vehicles can be several hundred between 7.30am and 10pm
- Unreasonable to expect neighbouring residential properties to be exposed to noise and smells for these extended times: if permission is granted to

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extend the operating hours of the plant then there will shortly be another application to extend delivery times. The tractors and trailers that already trundle through the village are a noise pollutant and reduce the amenity of the enjoyment of my house and garden. As the potato boxes are not covered there is also a fair amount of spillage in the village. The transportation impacts on very many households

- Increase danger to road uses including pedestrians and school children.
- The granting of the permission to extend hours would be a dangerous precedent and give rise to similar requests from the other industrial businesses in the area for similar hours. This in turn having a detrimental impact on residential amenity
- Unconvinced by statements that employees are local
- Extra staff will result in more traffic exacerbating road safety
- Extra traffic will exacerbate damage to listed building adjacent the road
- Works taken to eliminate odour since submission of application have not been successful

10.3 Support (6) for 170226 some have made more than one rep

- Use has occurred for 5 years and not caused any odour issues.
- No problems with noise or traffic.
- Business provides employment and supports the local economy.
- Locals should support successful rural businesses.
- Council should be supporting this thriving business.

10.4 Objection (1) to 172600

- Concerned that this is a rouse to enlarge and increase traffic problems in Fordham both to the fabric of the road and highway safety.

10.5 Support (5) 172600

- The business makes a positive contribution to the local economy by employing local people and supporting local suppliers and business.
- The base product, potatoes, are grown locally.
- Do not support the extension of their current working hours but fully support the part of this application permitting the owners to finally install the correct, effective and proper filtration and odour control equipment to their crisp production facility .

11.0 Parking Provision

- 11.1 There is extensive hardstanding at Fairfield's Farm which can be utilised for parking and therefore the scheme is held to comply with the adopted Parking Standards.

12.0 Open Space Provisions

- 12.1 Not relevant to the consideration of these applications

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

- 14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 The main issues in this case are:

The Principle of Development

- 15.2 Adopted Policy DP 8 gives support for existing agricultural uses including food production including processing, packaging and marketing and retailing. This policy also supports farm diversification. Emerging Policy DM7 identifies that the Council will support and encourage appropriate farm diversification proposals that are compatible with the rural environment and help sustain agricultural enterprises. The grant of planning permission in 2012 for the potato crisp operation accepted that this use was appropriate farm diversification directly related to applicant's farming activities on the site.
- 15.3 Employment uses in the rural areas are also supported by Adopted DP9; although this Policy does have a number of provisions regarding the impact on the landscape and amenity. Policy SP6 in the Emerging Local Plan indicates that there should be support for the diversification of the rural economy
- 15.4 The applicant has an established crisp manufacturing business which is expanding. The extra hours of operation are required to accommodate additional outputs associated with the growth of the enterprise. It is anticipated that within the first year of operation 7 full time jobs will be created and a further 7 in the second year. All existing employees live within 10 miles of the site.

- 15.5 The increase of floor area required to facilitate the extraction system, can be accommodated within the existing building. The only physical different to the site will be the extraction equipment outside of the building.
- 15.6 It is considered that in principle both the applications under consideration in this report are in line with the policies highlighted above.

Impact on the Surrounding Area

- 15.7 The application building is set with in a group of large modern agricultural buildings. There are public views from the road and a public footpath to the west of the site. The impact of the extraction equipment and in particular the proposed flue which is higher than the ridge of the building has been discussed with the Landscape Officer. In any of these views the proposed extraction system will be seen against the back drop of the host building and other structures within the farmyard. Landscaping agreed and conditioned to be undertaken for the adjacent biogas digester (which includes native wood copses to the east and north of the site) will also in time provide some screening from Fordham Road. It is considered that the impact in the landscape of the extraction system is acceptable.

Highway Safety

- 15.8 There are concerns regarding the impact of the proposed change of operation hours on the highways safety. ECC Highways are not raising any objection to either applications and have commented that unless traffic movements could be described or considered severe, which they suspect would be very difficult to demonstrate, they cannot recommend refusal.

Impacts on Neighbouring Properties

- 15.9 It is evident from reports predominantly to Environmental Protection over a number of years that the odour from the crisp manufacturing is smelt at a number of properties some at some distance from the application site. The impact from odour varies from day to day depending on prevailing wind and other climatic conditions.
- 15.10 The odour has been witness by an Environmental Protection Officers but never at a level which can be considered as a 'statutory nuisance'. Nevertheless the Environmental Protection Officers view is that currently the odour from the site is noticeable in the surrounding area and any the increase in operating hours posed a significant risk to amenity, quality of life and wellbeing for local residents.

- 15.11 The proposed extraction system is intend to deal with existing odour issues. Environmental Protection have indicated that this is an improvement on the current extraction arrangements and should ensure that there are less odour issues if it is installed as submitted and maintained too manufactures specifications. Accordingly they are not objecting to the application to vary the hours of operation.
- 15.12 Environmental Protection require a number of conditions to be imposed on 172600. These relate to the new extraction system to ensure that the equipment is installed and retained as proposed. They also require an Odour Management Plan to include servicing and maintenance schedules to be agreed in writing. These conditions will be imposed.
- 15.13 It is also necessary to condition the variation of condition application (170226) to ensure that the increase in operational hours has does not occur until the extraction system is fully installed and to the satisfaction of the Environmental Protection and the Odour Management Plan is submitted and approved.

16.0 Conclusion

- 16.1 To summarise, advice from Environmental Protection indicates that the proposed extraction system should improve the exisiting odour issues in the area. On that basis the application to facilitate the new extraction system and the application to vary the condition to allow the extended hours of operation are acceptable and therefore both applications can be supported.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

Delegation to officers to APPROVE both applications subject to no new material considerations being received during the re-consultation period and subject to the conditions as detailed below:

Application 172600

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in complete accordance with the details shown on the submitted Drawing Numbers 7000, 7208-PC-03-10-17A , BPC-16-11-17B (showing amended external extraction system with 11.3m flue discharge stack), BPC – 03-01-17A (in as far as it relates to the internal layout of the building only and excluding the superseded extraction system) and Fabcon Food Systems Ltd report dated 10/9/17 shall thereafter be retained as detailed on these drawings and in the report unless otherwise agreed in writing by the LPA.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. Non Standard condition – Submission of Odour Management Plan

Prior to the extraction system first coming in to operation an Odour Management Plan shall be submitted for the written agreement of the Local Planning Authority. The system shall be operated in full compliance with the agreed Plan.

Reason: In the interest of residential amenity.

4. Non Standard Condition – Scheme of collection and disposal of waste

A system for the collection and disposal of waste from the system must be submitted to, and agreed in writing by the Local Planning Authority and adhered to thereafter.

Reason: To ensure satisfactory arrangements are made for the disposal of waste to prevent pollution of the water environment and to protect the groundwater quality in the area in the interests of Health and Safety.

5. ZGG - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of, or boundaries near to, noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

18.0 Informatives

The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

Application 170226

1) Non Standard condition - Time scale for commencement of variation of Condition 3

The variation of condition 3 of planning permission 121150 shall not come into effect until:

- a) the extraction system approved under planning permission 170226 has been completed in its entirety and the completed system has been inspected and agreed by Environmental Protection Team
- b) the Odour Management Plan required to be submitted under planning permission 170226 has been submitted and agreed

Reason: The variation of the condition is only acceptable if the extraction system has been installed as approved and appropriately maintained in the interests of residential amenity.

2) ZAW - *Removal/Variation of Condition(s) Approval*

With the exception of condition 3 of Planning Permission 121150 which is hereby varied, the requirements of all other conditions imposed upon planning permission 121150 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.



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Item No: 7.6

Application: 172815
Applicant: Holly Brett – CBC
Agent: Kevin Whyte
Proposal: Non material amendment following grant of planning permission 151825
Location: Car Park at, Sheepen Road, Colchester
Ward: Castle
Officer: Sue Jackson

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Colchester Borough Council is the applicant.

2.0 Synopsis

- 2.1 The key issues for consideration are whether the amendments to the approved scheme are acceptable. The conclusion is that as the building will be slightly smaller than that approved and the number of parking spaces will be increased the application is acceptable.
- 2.3 The application is subsequently recommended for approval as a non-material amendment.

3.0 Site Description and Context

- 3.1 The site is along Sheepen Road to the west of the Middleborough roundabout. Sheepen Road links the Middleborough Roundabout to the Avenue of Remembrance and serves Colchester Borough Councils' offices, the Colchester Institute, a small retail park, allotments, a car dealership, a small number of residential properties and St Helena School.
- 3.2 Planning permission was granted for the erection of two office buildings on the site in November 2015. One of the approved buildings has been completed and is now occupied. The amendments relate to the second building fronting Sheepen Road.

4.0 Description of the Proposal

- 4.1 This application is for a non-material amendment and proposes minor changes to the approved building. These changes involve a reduction in the floor area of the building from 1327 square metres to 1105 square metres and the provision of solar panels on the roof. The building is unaltered in all other respects.
- 4.2 As a consequence of the smaller building the parking area has been re-arranged and this allows two additional parking spaces to be provided. The submitted drawing also indicate a substation and a new location for the plant compound, cycle parking and delivery vehicles.

5.0 Land Use Allocation

- 5.1 The site is within a Mixed Use area on the Proposals Map. Appropriate Land Uses in Mixed Use Centres are defined in the Core Strategy and offices are identified as a primary land use.

6.0 Relevant Planning History

- 6.1 151825 - Proposed phased development of 2 new office buildings and associated outbuildings, parking and landscaping - Approved 6th November 2015
151826- Totem board to form of building - Approved 6th November 2015
161291 - Printed site hoarding – temporary consent 18th July Approved 2016 (hoarding now removed)
163132 - Direction sign Approved- 20 January 2017
171236 - Agents letting board- Temporary consent 10 July 2017

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
CE2 - Mixed Use Centres
UR2 - Built Design and Character
TA5 - Parking
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP7 Local Centres and Individual Shops
DP19 Parking Standards
DP25 Renewable Energy

- 7.4 Some "allocated sites" also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA CE1 Mixed Use Sites

- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Arboricultural Officer has been consulted as the revisions to the car park layout that result in minor changes to the parking and manoeuvring areas in relation to the retained trees. The officer's response will be reported on the amendment sheet.

9.0 Parish Council Response

- 9.1 N/A

10.0 Representations from Notified Parties

- 10.1 As the application is for a non-material amendment no one is affected by the proposal and notification to interested third parties including neighbouring properties is not required or necessary.

11.0 Parking Provision

- 11.1 Two extra parking spaces are proposed beyond the provision approved previously.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

- 14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

15.1 The main issues in this case are:

- **The Principle of Development**
The principle of the development is established by the planning permission granted in 2015.
- **Design and Layout**
Whilst this non material amendment proposes a slightly smaller building the approved design and layout are retained virtually unaltered.
- **Scale, Height and Massing**
The height of the building is unaffected. The amendments will result in an imperceptible change to the scale and massing of the approved building.
- **Impact on the Surrounding Area**
There is no impact on the surrounding area.
- **Impacts on Neighbouring Properties**
There is no impact on neighbouring properties.
- **Highway Safety and Parking Provisions (including Cycling)**
The vehicular access is unaltered by these amendments.
- **Parking Provision**
Parking provision has increased by two spaces.
- **Other Matters**
None

16.0 Conclusion

16.1 To summarise, this non-material amendment application, which were the applicant not Colchester Borough Council would be dealt with under delegated powers, proposes only minor changes to the building and layout and is considered acceptable.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of the non-material amendment, the development will be subject to the conditions on the 2015 planning permission which for Members information is produced in Appendix 1.



Notice of Planning Decision

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) ORDER
(ENGLAND) ORDER 2015

In pursuance of the powers exercised by it as District Planning Authority this Council, having considered your application to carry out the development detailed below in accordance with the plan(s) accompanying the said application, DOES HEREBY GIVE NOTICE of its decision to GRANT PERMISSION for the said development subject to additional condition(s) set out below.

APPLICATION NO: 151825

APPLICATION DATE: 26 August 2015

PROPOSAL: Proposed phased development of 2 new office buildings and associated outbuildings, parking and landscaping.

LOCATION: Car Park at, Sheepen Road, Colchester

APPLICANT: Mr Reg Patterson, Rowan House, Sheepen Road, Colchester, Essex, CO3 3WG

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1842 DE 10-01A, 10-03B, 10-04B, 20-01A, 20-02A, 20-03A, 20-10A, 20-11A, 20-12A, 30-01A, 35-01A, 35-02A, 35-03A, SK30-10A, 30-11A, 40-02A, 30-02A, 40-01A
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED

3. No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:
- a. The programme and methodology of site investigation and recording
 - b. The programme for post investigation assessment
 - c. Provision to be made for analysis of the site investigation and recording
 - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation
 - f. Nomination of a competent person or persons/organisation to undertake the works

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

NB In this case, further trial-trenching will be required in advance of development. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

4. No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
 - (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

5. No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

6. No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

7. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 4, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 5, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 6.
Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
8. Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 4 and 5
Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
9. No demolition or construction work shall take outside of the following times;
Weekdays: 08.00 – 18.00
Saturdays: 08.00 – 13.00
Sundays and Bank Holidays: None
Reason: To ensure that the construction phase of the development Hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.
10. Prior to commencement of the development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel cleaning facility shall be provided prior to commencement and during construction of the development
Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

11. No occupation of the development shall take place until the applicant has demonstrated that there is a satisfactory travel plan with appropriate approval, monitoring and review mechanism in place.
Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
12. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation. The scheme shall include:
- Limiting the discharge from the site to a maximum of 2l/s.
 - Provide attenuation storage for all storm events up to and including the 1:100 year storm event inclusive of climate change.
 - An appropriate level of treatment for all runoff leaving the site in line with table 3.3 of the CIRIA SuDS Manual.
 - Provide suitable mitigation measures against any high seasonal groundwater levels found on site.
- Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development.
13. The development hereby permitted shall not be commenced until such time as a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.
Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates.
Reason: To mitigate against increased flood risk to the surrounding area during construction therefore, there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.
14. Prior to commencement of the development the applicant must submit a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies.
Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

15. The adopting body responsible for maintenance of the surface water drainage system must record yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.
Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.
16. Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.
Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.
17. No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:
- PROPOSED FINISHED LEVELS OR CONTOURS;
 - MEANS OF ENCLOSURE;
 - CAR PARKING LAYOUTS;
 - OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
 - HARD SURFACING MATERIALS;
 - MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
 - PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
 - RETAINED HISTORIC LANDSCAPE FEATURES;
 - PROPOSALS FOR RESTORATION;
 - PLANTING PLANS;
 - WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
 - SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
 - IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

The submitted landscape proposal requires amendment to ensure compliance with the Councils Adopted Landscape Strategy.
Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

18. No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.
- Reason: To protect and prevent the pollution of controlled waters (particularly groundwater associated with the underlying Secondary and surface water of the River Colne, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.
19. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and

maintenance plan shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters (particularly groundwater associated with the underlying Secondary and surface water of the River Colne, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

20. No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.
Reason : To protect and prevent the pollution of controlled waters (particularly groundwater associated with the underlying Secondary and surface water of the River Colne, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.
21. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
Reason: To protect and prevent the pollution of controlled waters (particularly groundwater associated with the underlying Secondary and surface water of the River Colne, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

22. No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.
Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.
23. No works shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Good.
Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.
24. Within 3 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Good/Very Good has been achieved for this development.
Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.
25. Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.
Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.
26. No works shall take place until details of a scheme of cycle parking, in accordance with the Adopted Essex Parking Standards Design and Good Practise document, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be provided and made available for use prior to the first occupation/use of the development. These facilities shall thereafter be retained as such.
Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.
27. Prior to the first occupation of the development, the POWERED TWO WHEELER/CYCLE PARKING facilities as shown on the approved plans are to be provided and shall thereafter be retained as such at all times.
Reason: To ensure appropriate POWERED TWO WHEELER/CYCLE PARKING is provided.

28. Prior to the first Occupation/Use of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ4 town/city centres with high levels of night-time activity shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.
- Reason: In order to allow a more detailed technical consideration of the lighting at the site, as there is insufficient information submitted within the application to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

Informatives

- (1) The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.
- (2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.
- (3) PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.
- (4) Highway Informatives
All highway related details should be agreed with the Highway Authority. The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009 Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River. If the applicant believes they need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding. Alternatively they can email any queries to Essex County Council via watercourse.regulation@essex.gov.uk. Planning permission does not negate the requirement for consent and full details of the proposed works will be required at least two months before the intended start date.

(5) Essex County SUDS Informatives

PLEASE NOTE: Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

Whilst we have no further specific comments to make at this stage, attached is a standing advice note explaining the implications of the Flood and Water Management Act (2010) which could be enclosed as an informative along with your response issued at this time.

(6) Environment Agency Informatives

Advice to Applicant We recommend the applicant refers to our document, Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention (NC/99/73 May 2001).

Flood Risk

Our maps show the site is located in Flood Zones 1 and 2, the low and medium probability zones. This application is therefore covered by our Flood Risk Standing Advice.

However, we are aware that there is a grill on Sheepen Road Ditch, at the north east corner of the site, and consideration should to be given in the Flood Risk Assessment to the increased risk from this not been cleared by either Colchester Borough Council or Essex County Council who own it.

Flood Defence Consent

Under the terms of the Water Resources Act 1991 and the Anglian Land Drainage Byelaws, our prior written consent is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of Sheepen Road Ditch, which is designated a main river.

Foul Water Disposal

The submitted information indicates that the development will be connected to the public foul sewer. Anglian Water Services should be consulted regarding the available capacity in the foul water infrastructure. If there is not sufficient capacity in the infrastructure then we must be consulted again with alternative methods of disposal.

Sustainability

Climate change is one of the biggest threats to the economy, environment and society. New development should therefore be designed with a view to improving resilience and adapting to the effects of climate change, particularly with regards to already stretched environmental resources and infrastructure such as water supply and treatment, water quality and waste disposal facilities. We also need to limit the contribution of new development to climate change and minimise the consumption of natural resources. Opportunities should therefore be taken in the planning system, no matter the scale of the development, to contribute to tackling these problems. In particular we recommend the following issues are considered at the determination stage and incorporated into suitable planning conditions:

- Overall sustainability: a pre-assessment under the appropriate Code/BREEAM standard should be submitted with the application. We recommend that design Stage and Post-Construction certificates (issued by the Building Research Establishment or equivalent authorising body) are sought through planning conditions.

- Resource efficiency: a reduction in the use of resources (including water, energy, waste and materials) should be encouraged to a level which is sustainable in the long term. As well as helping the environment, Defra have advised that making simple changes resulting in the more efficient use of resources could save UK businesses around £23bn per year.

- Net gains for nature: opportunities should be taken to ensure the development is conserving and enhancing habitats to improve the biodiversity value of the immediate and surrounding area.

- Sustainable energy use: the development should be designed to minimise energy demand and have decentralised and renewable energy technologies (as appropriate) incorporated, while ensuring that adverse impacts are satisfactorily addressed. These measures are in line with the objectives of the NPPF as set out in paragraphs 7 and 93-108. Reference should also be made to the Climate Change section of the draft National Planning Practice Guidance, in particular: Why is it important for planning to consider climate change?" and "Where can I find out more about climate change mitigation and adaptation?"
<http://planningguidance.planningportal.gov.uk/blog/guidance/>

PLEASE NOTE: a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it.

Date: 6 November 2015

Signed: 

Gareth Mitchell
Head of Commercial Services

Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

In determining this application the Council has taken into account the following policies:

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
CE2 - Mixed Use Centres
UR2 - Built Design and Character
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ER1 - Energy, Resources, Waste, Water and Recycle
DP1 - Design and Amenity
DP3 - Planning Obligations & the Community Infrastructure Levy
DP6 - Colchester Town Centre Uses

DP17 - Accessibility and Access
DP19 - Parking Standards
DP20 - Flood Risk and Management of Surface Water Drainage
DP25 - Renewable Energy

NOTES ON YOUR DECISION NOTICE – PLEASE READ THE BELOW IN FULL

Building in Accordance with the Plans

Planning permissions are given on the basis of the details submitted. If you plan to make any changes whatsoever to deviate from the approved plans then you are strongly advised to liaise with Colchester Borough Council Planning Services prior to undertaking any works. You may require a new planning application or a variation to your existing permission. Failure to construct in accordance with the plans could lead to potential Enforcement Action.

Requirement to Comply With Your Conditions

Please read all of your conditions carefully. All of your conditions must be complied with. Failure to comply in full with a planning condition placed upon your permission may result in potential Enforcement Action. Planning conditions require certain things to be done at certain times, often prior to the commencement of any works. If you are in any doubt as to the requirements of your conditions please liaise with Colchester Borough Council Planning Services.

Building Regulations

Planning permissions do not include any approval which may be necessary in accordance with Building Regulations. Advice on the need for Building Regulations approval can be obtained by calling Colchester Borough Council Building Control Team on 01206 282436.

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within the timescales listed below:

- For Householder Appeals – within 12 weeks of the date of the decision notice
- For Minor Commercial Appeals – within 12 weeks of the date of the decision notice
- For Advertisement Appeals – within 8 weeks of the date of the decision notice
- For all other appeal types – within 6 months of the date of the decision

Notwithstanding the above, if the planning application relates to the same (or substantially the same) land and development as is already the subject of an enforcement notice the appeal must be made within 28 days of the date of this notice and not the period set out above.

If an enforcement notice is served relating to the same (or substantially the same) land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within the relevant period set out above, from the date of this notice, whichever period expires earlier.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not

have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Access for All

In respect of buildings for employment use or to which the public will be admitted, attention is drawn to the requirements of sections 4, 7 and 8a of the Chronically Sick and Disabled Persons Act 1970*. These require the buildings to be made accessible to disabled people wherever practicable. Guidance is provided in the British Standards Institution Code of Practice BS.5588 1987 'Access for the Disabled to Buildings'.

* Superseded by Chronically Sick and Disabled Persons (Amended) Act 1976; Disabled Persons Act 1981; Building (Disabled Persons) Regulations 1987, Equality Act 2010 and relevant provisions within the Town and Country Planning Act 1990.

Rights of Way

The applicant is reminded that the grant of planning permission does not entitle them to obstruct a Right of Way. If it is necessary to stop up or divert a footpath or bridleway in order to enable the development to be carried out, they should, on the receipt of planning permission, apply without delay to the Local Planning Authority for an order under section 257 of the Town and Country Planning Act 1990. In the case of any other right of way, application should be made to the Secretary of State for an order under section 247 of the Act. In either case development shall not be started until a decision has been taken on the application.

Purchase Notice

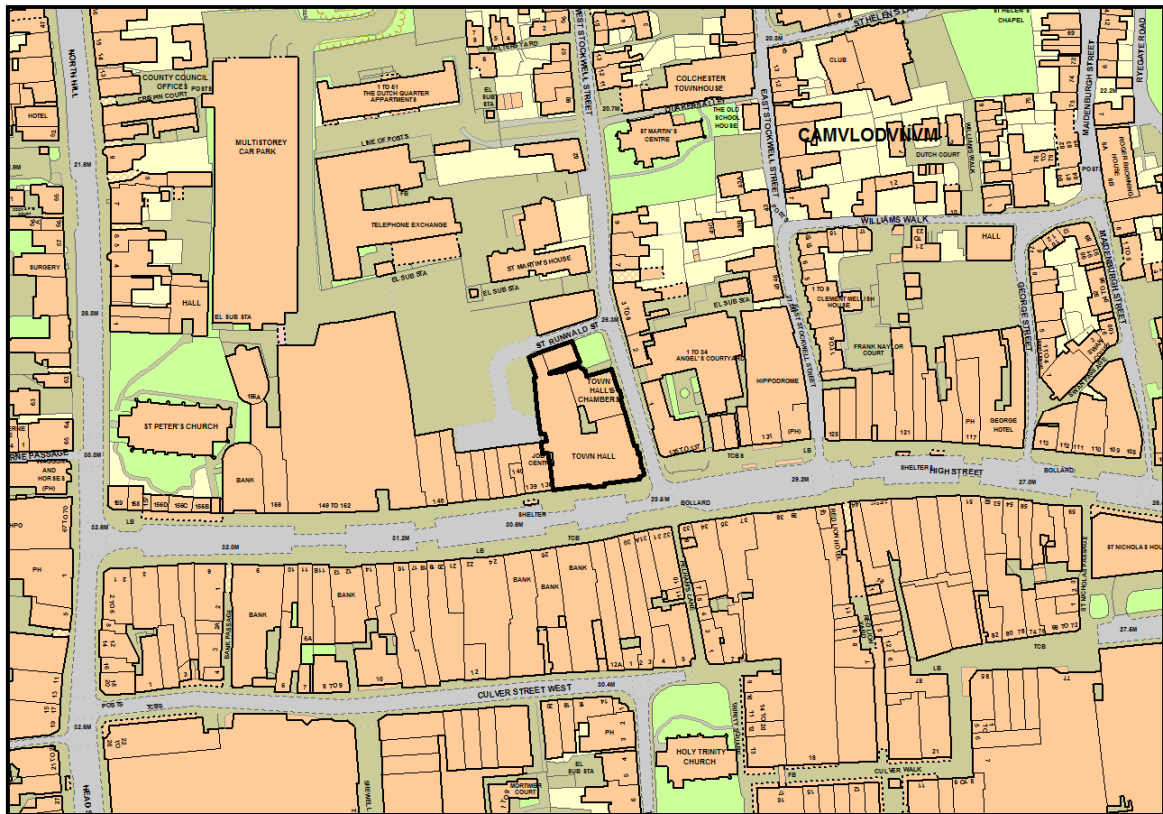
If either the Local Planning Authority or the Secretary of State refuses permission to develop land, or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonable beneficial use in its existing state, nor can they render the land capable of a reasonably beneficial use by the carrying out of any development which has been, or would be, permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Planning Act 1990, or section 32 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as appropriate.

You are advised to seek professional advice before embarking on the serving of a purchase notice.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused, or granted subject to conditions, by the Secretary of State on appeal or on reference of the application to him.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.7

Application: 172995

Applicant: Colchester Borough Council

Agent: N/A

Proposal: Temporary seasonal signage for up to 6 weeks a year for a period of 2 years.

Location: Town Hall, High Street, Colchester, CO1 1PJ

Ward: Castle

Officer: James Ryan

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of the scheme in public safety and visual amenity terms. The scheme raises not issues in either regard and therefore is held to be acceptable.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site comprises the Grade I Listed Town Hall and in particular the railings of the main balcony on the High Street frontage.

4.0 Description of the Proposal

- 4.1 Advertisement Consent is sought for temporary seasonal signage for up to 6 weeks a year for a period of 2 years.
- 4.2 The sign that is soon to be affixed to the balcony is a PVC banner 1800mm wide by 760mm in height. It will be purple with 'Merry Christmas #TheColchester7' printed on it.
- 4.2 This advert consent would allow banners of the same size to be affixed to the railings on the balcony as and when the Council require it for the next two years.

5.0 Land Use Allocation

- 5.1 The site is a listed building located in the defined town centre.

6.0 Relevant Planning History

- 6.1 There is a great deal of planning history related to the site but none is relevant to this proposal.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP14 Historic Environment Assets

- 7.4 The Emerging Local Plan has been submitted for Inspection and therefore carries a small degree of weight. The policy most relevant to this scheme is:

DM15 - Design and Amenity.

- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

Shopfront Design Guide

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

ECC Highways – No objection. Two informatives suggested which will be imposed.

9.0 Parish Council Response

- 9.1 Non-parished.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

None received at time of writing.

11.0 Parking Provision

- 11.1 As an application for advertisement consent this is not relevant.

12.0 Open Space Provisions

12.1 As an application for advertisement consent this is not relevant.

13.0 Air Quality

13.1 As an application for advertisement consent this is not relevant.

14.0 Planning Obligations

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

15.1 As an application for advertisement consent the scheme must be assessed in terms of:

- Visual Amenity
- Public Safety

Visual Amenity

15.2 The scheme is a PVC banner which is to be affixed to the railings of the Town Hall balcony. It is a clearly temporary and entirely reversible piece of signage that will be installed until early January to promote the town centre and its shopping offer.

15.3 As the scheme is so obviously temporary and modest in scale it consequently raises no concerns in terms of visual amenity and does not adversely impact on the setting/appearance of the listed Town Hall at the heart of the Colchester Town Centre Conservation Area. The same can be said for any PVC banner of the same size and therefore it is prudent to grant Advertisement Consent for alternative banners to be installed as the Council sees fit in connection with its role as the Borough Council.

Public Safety

15.4 As the proposed banner will be located on the railings of the existing balcony it does not raise any public safety concerns. It is not illuminated so will not cause harm to passing drivers. The Highway Authority have no objection to the scheme. It is therefore acceptable in public safety terms.

16.0 Conclusion

16.1 To summarise the scheme raises no concerns in terms of visual amenity and public safety and therefore an approval is advertisement consent is recommended.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of advertisement consent subject to the following condition:

1) ZQA - Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2) ZQB - *Limited Period Advertisements*

The advertisement hereby approved shall be displayed for a limited period only expiring 2 years from the date of this advert consent.

Reason: To ensure the advertisement display is removed at the appropriate time and does not become a permanent fixture on the Town Hall in the interests of visual amenity

3) Z00 – Non-Standard Advert Display Condition

The advertisement displayed shall be directly related to the corporate role of the Borough Council and shall be no larger than 1800mm wide and 800mm high and shall only be displayed on the railings of the town hall balcony for a period not exceeding 6 weeks. It shall then be removed until such time as a new banner is required by the Council.

Reason: To ensure the advertisement display is removed at the appropriate time and does not become a permanent fixture on the Town Hall in the interests of visual amenity.

18.0 Informatives

18.1 The following informatives are also recommended:

- (1) The Highway Authority reserves the right under Section 152 of the Highways Act, 1980 to remove or alter any sign overhanging or adjacent to the highway which is considered to be an obstruction or a hazard to the safe and convenient passage of the public in the highway.
- (2) All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan* 1989) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- | | |
|--|-------------------------|
| 1. Necessary | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable |
| 5. Precise | 6. Enforceable |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



Colchester Borough Council Development Management

Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

Parking Standards

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction and Demolition Works

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Best Practice for Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

Noise Control

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

Emission Control

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1. Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

Use for the sale of food and drink for consumption on the premises.

Class A4. Drinking establishments

Use as a public house, wine-bar or other drinking establishment

Class A5. Hot food takeaways

Use for the sale of hot food for consumption off the premises.

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
- (b) for research and development of products or processes, or
- (c) for any industrial process,

being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within class B1 above

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

Class D1. Non-residential institutions

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

If Councillors require more information, or minor amendments to be explored, then the item should be deferred.

If no more information or amendment is desired Councillors will proceed to propose a motion.

